

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-21436 Kristal Jessel Solis**

**Chapter 7**

**#1.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 NISSAN VERSA, VIN # 3N1CN7AP1GL832126 . (Vanlochem, Michael)

Docket 11

**Tentative Ruling:**

1/3/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

**United States Bankruptcy Court  
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10:00 AM

**CONT... Kristal Jessel Solis**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Kristal Jessel Solis

Pro Se

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Monday, January 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-22074 Edward Anthony Rosas and Andrea Lynn Rosas**

**Chapter 7**

**#2.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Buick Encore, VIN: KL4CJDSB4GB732110 . (Wang, Jennifer)

Docket 10

**Tentative Ruling:**

1/3/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court notes that Debtor's interest in the property consists of a lease that matured or was rejected on or about November 14, 2019. *See* Motion at 7 [Personal Property Declaration]. Additionally, as stated in the motion, the Debtor voluntarily surrendered the property on or about October 25, 2019. *Id.*

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload

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**Monday, January 6, 2020**

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10:00 AM

**CONT...**      **Edward Anthony Rosas and Andrea Lynn Rosas**  
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**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Edward Anthony Rosas

Represented By  
Sundee M Teeple

**Joint Debtor(s):**

Andrea Lynn Rosas

Represented By  
Sundee M Teeple

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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Central District of California  
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**Monday, January 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-22541 Carlos Contreras**

**Chapter 7**

**#3.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 TOYOTA TACOMA with Proof of Service. (Nagel, Austin)

Docket 10

**Tentative Ruling:**

1/3/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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**CONT... Carlos Contreras**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Carlos Contreras

Represented By  
Michael H Colmenares

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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Central District of California  
Los Angeles  
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**Monday, January 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24057 P.S. Paint.com Inc.**

**Chapter 7**

**#4.00** HearingRE: [6] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 1501 W. Washington Blvd., Units 101B and 107 .

Docket 6

**Tentative Ruling:**

1/3/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1). The stay is terminated as to the Debtor and the Debtor's bankruptcy estate with respect to the Movant, its successors, transferees and assigns. Movant may enforce its remedies to obtain possession of the property in accordance with applicable law, but may not pursue a deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

The Debtor continues to occupy the property after defaulting on a commercial lease on or about August 1, 2019. The Movant served a notice to pay or quit on the Debtor on November 26, 2019.

This Motion has been filed to allow the Movant to proceed with the unlawful detainer proceeding in state court. The unlawful detainer proceeding may go forward because the Debtor's right to possess the premises must be determined. This does not change simply because a bankruptcy petition was filed. See In re Butler, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002).

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**CONT... P.S. Paint.com Inc.**

**Chapter 7**

This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

P.S. Paint.com Inc.

Represented By  
Donald E Iwuchuku

**Trustee(s):**

John J Menchaca (TR)

Pro Se



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Central District of California  
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**2:19-21869 Levelt Howard**

**Chapter 7**

**#5.00** HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 BMW 528i, VIN: WBAXG5C5XCDW85505 . (Wang, Jennifer)

Docket 9

**Tentative Ruling:**

1/3/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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Central District of California  
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**Monday, January 6, 2020**

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**CONT... Levelt Howard**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Levelt Howard

Pro Se

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Monday, January 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23451 Roberto Carlos Garcia**

**Chapter 7**

**#6.00** HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Chevrolet Malibu, VIN: 1G1ZB5ST7JF275930 . (Wang, Jennifer)

Docket 9

**Tentative Ruling:**

1/3/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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10:00 AM

**CONT... Roberto Carlos Garcia**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Roberto Carlos Garcia

Represented By

Ramiro Flores Munoz

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Monday, January 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-22025 Omar Martin Martinez**

**Chapter 7**

**#7.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 29 Maynard Street, San Francisco, California 94112 with Request for In Rem and Extraordinary Relief.

Docket 11

**Tentative Ruling:**

1/3/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Court finds that there is sufficient evidence to grant relief pursuant to 11 U.S.C. § 362(d)(4). The Debtor filed this voluntary Chapter 7 case on October 10, 2019. On November 30, 2016, Maria Carmen Cuevas and Kyle Pineda (the "Borrowers") executed a security instrument secured by real property located at 29 Maynard Street, San Francisco, CA, 94112 (the "Property"). *See* Motion, Ex. 4. As set forth on Exhibit 6 of the Motion, the Borrowers purportedly granted the Debtor a 3% interest in the Property by way of a grant deed. The grant deed is dated October 18, 2018. *See* Motion, Ex. 6. In fact, interests in the Property were purportedly transferred through unauthorized grant deeds to at least two other individuals. *See* Supplemental Declaration, ¶ 4. Accordingly, these third parties, including one of the Borrowers, filed multiple bankruptcy cases affecting interests in the Property. *See id.*, ¶¶ 5-8. Therefore, this petition was part of a scheme to delay, hinder, and defraud creditors, which involved the transfer of all or part ownership of, or other interest in, the Property without the consent of Movant or court approval and multiple bankruptcy cases affecting the Property.

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CONT...

**Omar Martin Martinez**

**Chapter 7**

Moreover, Debtor's commencement documents do not reflect that he possesses any interests in real property. Doc. No. 1. The record further indicates that Debtor has no contractual obligations, or is otherwise in privity of contract, with either the Borrowers or the Movant. Accordingly, the Court cannot conclude that Debtor himself has actually engaged in any bad faith conduct. *See In re Dorsey*, 476 B.R. 261, 267 (Bankr. C.D. Cal. 2012) (" [section] 362(d)(4) 'does not require that it be the debtor who has created the scheme or carried it out, or even that the debtor be a party to the scheme at all.'" ) (internal citations omitted). In sum, the Court determines that in rem relief under § 362(d)(4) is suitable.

For the reasons set forth above, the Motion is GRANTED to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the Property in accordance with applicable law. The 14-day period specified in Fed.R.Bankr.P. 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, the order shall be binding in any other case under this title purporting to affect the Property filed not later than 2 years after the date of the entry of such order by the Court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept a certified copy of this order for indexing and recording. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

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10:00 AM

**CONT... Omar Martin Martinez**

**Chapter 7**

**Debtor(s):**

Omar Martin Martinez

Represented By  
Raymond Perez

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:19-23952 Sella Care, Inc.**

**Chapter 7**

**#8.00** HearingRE: [8] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: FMI vs. Sella Care, Inc.

Docket 8

**Tentative Ruling:**

1/3/2020

For the reasons set forth below, the Motion is GRANTED in part, DENIED in part.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Action in Nonbankruptcy Forum) [Doc. No. 8] (the "Motion")
2. Order and Notice of Dismissal for Failure to File Schedules, Statements, and/or Plan [Doc. No. 7]
3. As of the preparation of this tentative ruling, no opposition is on file.

**I. Facts and Summary of Pleadings**

Sella Care, Inc. (the "Debtor") filed this voluntary chapter 7 case on November 27, 2019 (the "Petition Date"). On December 16, 2019, the Debtor's case was dismissed due to its failure to file required commencement documents. On the same day, Fund Management International, LLC ("Movant") filed the Motion [Doc. No. 8].

Movant seeks relief from the automatic stay pursuant to § 362(d)(1) to proceed under applicable non-bankruptcy law to final judgment with an action pending before the Los Angeles Superior Court (the "State Court") entitled *Fund Management International, LLC v. Sella Property, LLC, et al.*, Case No. BC611563 (the "State Court Action"). The State Court Action was filed on March 1, 2016. In addition to the Debtor, other defendants in the State Court Action are Jun Ho Yang ("J. Yang"), the Debtor's principal; Ho Soon Yang ("H. Yang"), J. Yang's spouse (collectively with J. Yang, the "Yangs"); their son, Sae Hyun Yang; and two other affiliated entities



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**CONT... Sella Care, Inc.**

**Chapter 7**

(collectively with the Yangs, the "State Court Co-Defendants"). The complaint in the State Court Action asserts various causes of action arising from the Yangs' breach of a prior lawsuit settlement agreement (the "Settlement Agreement") with Movant, and the State Court Co-Defendants' subsequent attempts to evade its collection by fraudulently conveying real property parcels. As further explained below, trial in the State Court Action has been repeatedly delayed and a new trial date is expected to be set on January 10, 2020.

The Movant states that the instant case is the third bankruptcy filing in a period of four months. The State Court Action had an original trial date of August 19, 2019. The Movant describes the two additional bankruptcy petitions as follows. On August 14, 2019, five days before the August 19 trial, J. Yang commenced a voluntary bankruptcy chapter 13 case. While listing Movant as his only creditor, Movant claims that J. Yang has other creditors as evidenced by the fact that he is currently being sued by his neighbors. J. Yang's bankruptcy case was subsequently dismissed with prejudice with a 180-day refiling bar because he failed to file requisite commencement documents. *See* Supplemental Declaration of Mark L. Edwards ["Edwards Decl."], ¶¶ 11-13. On October 13, 2019, four days before the State Court Action's continued trial date, H. Yang commenced a voluntary chapter 13. As with J. Yang's petition, H. Yang scheduled Movant as her only creditor, and on or about November 25, 2019, her case was also dismissed with a 180-day refiling bar. *Edwards Decl.*, ¶¶ 15-17. Trial in the State Court Action had been reset to December 3, 2019, but this bankruptcy case was filed six days before.

The Movant contends that cause exists to grant stay-relief under §362(d)(1) for the following reasons:

1. The claims arise under nonbankruptcy law and can be most expeditiously resolved in the nonbankruptcy forum, because the State Court Action involves non-debtor parties and a single trial in the nonbankruptcy forum is the most efficient use of judicial resources.
2. The claims are nondischargeable in nature and can be most expeditiously resolved in the nonbankruptcy forum.

The Movant also requests *in rem* and prospective stay-relief under § 362(d)(4) as it claims to satisfy the three-part standard under *In re First Yorkshire Holdings*,

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**CONT... Sella Care, Inc.**

**Chapter 7**

*Inc.*, 470 B.R. 864, 870-71 (B.A.P. 9th Cir. 2012) as follows:

1. The Debtor holds an alleged security interest in certain real property parcels that are subject of the State Court Action, and which Movant alleges were fraudulently transferred.
2. There is an established pattern of multiple bankruptcy filings affecting trial proceedings in the State Court Action.
3. Prospective relief is appropriate because Movant anticipates that other defendants in the State Court Action may file bankruptcy petitions in the future.

Finally, based on the Court's review of the supporting brief, the Movant also seeks extraordinary relief that includes the following:

1. A finding that Movant holds a nondischargeable claim against J. Yang in the sum of \$8,000,000;
2. A finding that Debtor is a vexatious litigant;
3. An award of attorneys' fees and costs of not less than \$5,206; and
4. Sanctions against the Debtor of a sum not less than \$10,000.

The Movant seeks to proceed under applicable nonbankruptcy law to enforce its remedies to proceed to final judgment in the nonbankruptcy forum. The Movant also requests waiver of the 14-day stay prescribed by FRBP 4001(a)(3). As of the preparation of this tentative ruling, no opposition has been filed.

## **II. Findings of Fact and Conclusions of Law**

As a preliminary matter, a motion for relief from the automatic stay is a summary proceeding that does not involve an adjudication of the merits of the underlying claims. As recognized by the Ninth Circuit Bankruptcy Appellate Panel in *In re Luz Int'l, Ltd.*:

Given the limited grounds for obtaining a motion for relief from stay,

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**Sella Care, Inc.**

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read in conjunction with the expedited schedule for a hearing on the motion, most courts hold that motion for relief from stay hearings should not involve an adjudication of the merits of claims, defenses, or counterclaims, but simply determine whether the creditor has a colorable claim to the property of the estate. *See In re Johnson*, 756 F.2d 738, 740 (9th Cir.), *cert. denied*, 474 U.S. 828, 106 S.Ct. 88, 88 L.Ed.2d 72 (1985) ("Hearings on relief from the automatic stay are thus handled in a summary fashion. The validity of the claim or contract underlying the claim is not litigated during the hearing.").

219 B.R. 837, 842 (B.A.P. 9th Cir. 1998) (citation omitted). In a summary proceeding, the court's discretion is broad. *In re Santa Clara Cty. Fair Ass'n, Inc.*, 180 B.R. 564, 566 (B.A.P. 9th Cir. 1995).

Section 362(d)(4)

Section 362(d)(4) provides that on request of a creditor whose claim is secured by an interest in real property after notice and a hearing, the court shall grant relief from the stay with respect to an act against the property if the court finds that the filing of the petition was part of a scheme to delay, hinder or defraud creditors that involved either (1) the transfer of all or part ownership of or interest in the property without the consent of the secured creditor or court approval or (2) multiple bankruptcy filings affecting the property. 11 U.S.C. § 362(d)(4). As one court explained: "[Section 362(d)(4)] permits the bankruptcy court to grant *in rem* relief from the automatic stay in order to address schemes using bankruptcy to thwart legitimate foreclosure efforts through one or more transfers of interest in real property." *In re First Yorkshire Holdings, Inc.*, 470 B.R. 864, 870 (B.A.P. 9th Cir. 2012).

The Court finds that relief requested pursuant to 11 U.S.C. § 362(d)(4) is inapposite to Movant's request for relief from stay to prosecute the State Court Action. Movant's basis for *in rem* relief under § 362(d)(4) is premised on operative facts germane to the State Court Action, as summarized below. On or about April 29, 2003, Movant and the Yangs entered into the Settlement Agreement to settle a previous lawsuit for, *inter alia*, fraudulent conversion of Movant's investment funds for a sum of \$3,000,000. *See* Motion, Ex. H ["Plaintiffs' Trial Brief"] at 2. In 2008, when the Yangs defaulted on Settlement Agreement obligations, Movant entered a judgment in state court pursuant to the parties' stipulation for entry of judgment. *See id.* On February 27, 2013, Movant recorded an abstract of judgment (the "Judgment")

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as to J. Yang and two other entities. *See id.*, Ex. C [Abstract of Judgment]. On or about February 19, 2013, J. Yang entered into an agreement to purchase commercial real property at 1833 Manchester Avenue, Los Angeles, CA 90047 (the "Manchester Property"). *Id.* at 4. In an effort to circumvent the Judgment, Movant alleges that J. Yang executed a promissory note in favor of the Debtor for "a line of credit" purportedly extended in connection with the purchase of Manchester Property. *Id.* at 6. On or about October 10, 2014, J. Yang purchased two undeveloped lots located on W. Court Street (the "Court Street Properties"), Los Angeles, CA 90026. *Id.* at 8. As with the Manchester Property, J. Yang allegedly executed a promissory note in favor of Debtor in connection with the purchase of the Court Street Properties. *Id.*

Based on the Court's review of Movant's trial brief, the State Court Action was filed to 1) void any existing conveyance and encumbrance of the Manchester and Court Street Properties, 2) to enjoin any future conveyance and encumbrance thereof, 3) to enforce certain provisions of the Settlement Agreement, and 4) to obtain damages and restitution. To the extent that Movant seeks to enforce these remedies in a nonbankruptcy forum, the Court finds it unnecessary to grant *in rem* relief under (d) (4). Here, Movant seeks to prevent additional bankruptcy filings from disrupting proceedings in the State Court Action. However, *in rem* relief under (d)(4) is premature at this point because these bankruptcy cases were not filed to derail any foreclosure proceedings against either the Manchester or Court Street Properties. Besides prosecuting the State Court Action, the Court is not aware of any pre-petition efforts by Movant to enforce its Judgment against these properties. Instead, as discussed below, these bankruptcy filings were merely attempts to postpone trial proceedings in the State Court Action. Therefore, *in rem* relief under § 362(d)(4) is not warranted at this stage.

Notwithstanding, the Court acknowledges Movant's concern of delayed trial proceedings in the State Court Action. Consequently, extraordinary relief is necessary to permit trial in the State Court Action to proceed without further interruption. The Court addresses such extraordinary relief below.

Section 362(d)(1)

The automatic stay of 11 U.S.C. § 362(a) stays all action involving the following, in pertinent part:

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the commencement or continuation, including the issuance or employment of process of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title.

11 U.S.C. § 362(a)(1).

Section 362(d)(1) permits a bankruptcy court to grant relief from the automatic stay upon a showing of "cause." Cause is a flexible concept and courts often conduct a fact intensive, case-by-case balancing test, examining the totality of the circumstances to determine whether sufficient cause exists to lift the stay. *In re SCO Grp., Inc.*, 395 B.R. 852, 856 (Bankr. D. Del. 2007) (citing *Baldino v. Wilson (In re Wilson)*, 116 F.3d 87, 90 (3d Cir. 1997); *In re Laguna Assocs. Ltd.*, 30 F.3d 734, 737 (7th Cir. 1994)); *In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). "Among factors appropriate to consider in determining whether relief from the automatic stay should be granted to allow state court proceedings to continue are considerations of judicial economy and the expertise of the state court." *In re Kronemyer*, 405 B.R. 915, 921 (B.A.P. 9th Cir. 2009) (citing *In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985)).

The Court finds that Movant has established a prima facie case that "cause" exists to grant relief from stay under § 362(d)(1). First, relief is appropriate because the causes of action in the State Court Action arise under state law and a state court would be more intimately familiar with Movant's case and applicable California law to expeditiously move the litigation to final judgment. Second, the State Court Action essentially involves the conduct of third parties, where the Debtor's involvement has been reduced to that of a conduit for the property in question.

Last, the Court notes the recurring pattern of bankruptcy filings by Debtor and the State Court Co-Defendants. The Court finds that these bankruptcy petitions were filed for the sole purpose of interrupting trial proceedings in the State Court Action because 1) these petitions were commenced days before the trial was set to commence, 2) Movant is listed as the only creditor, or one of very few creditors, 3) few case commencement documents were submitted, and 4) each case was summarily dismissed with prejudice. *See* Memorandum of Points and Authorities at 2-4. Further

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reference is made to an earlier finding of bad faith reached by the bankruptcy court presiding over J. Yang's chapter 13 case. *See* Motion, Ex. B. In sum, the Debtor and the State Court Co-Defendants filed the above-referenced bankruptcy cases in bad faith, and these parties acted in concert to impair Movant's ability to prosecute the State Court Action.

Based on the foregoing, the Court finds it appropriate to grant extraordinary relief to prevent future bankruptcy abuses by Debtor or an affiliated party. Pursuant to the Court's inherent authority under § 105(a), this order is binding and effective for a period of 180 days in any bankruptcy case commenced by or against 1) the Debtor, 2) each of the State Court Co-Defendants, or 3) any other entity that may be formed by Debtor or a State Court Co-Defendant, so that no further automatic stay shall arise in that case as to the State Court Action. 11 U.S.C. § 105(a) ("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...prevent[ing] an abuse of process.").

Therefore, the Court GRANTS the Motion pursuant to 11 U.S.C. § 362(d)(1) to permit the Movant to proceed under applicable non-bankruptcy law to enforce its remedies to proceed to final judgment in the non-bankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or estate property. Movant may not pursue any deficiency claim or any other claim against the Debtor or property of the estate, except that the Movant will retain the right to file a proof of claim. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

The Court Will Issue an Order Requiring Debtor to Appear and Show Cause Why It Should Not be Sanctioned

The Bankruptcy Court has civil contempt authority under §105. *Barrientos v. Wells Fargo Bank, N.A.*, 633 F.3d 1186, 1188 (9th Cir. 2011). Criminal contempt sanctions are not available under §105. *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178, 1193 (9th Cir. 2003). A sanction is civil if it is "either compensatory or designed to coerce compliance." *Id.* at 1192. A sanction is criminal if the sanction is punitive—that is, "if the contemnor has no subsequent opportunity to reduce or avoid the fine through compliance," and the fine is not compensatory." *Id.* (internal citations omitted). Attorneys' fees may be awarded as compensatory damages under the Court's civil

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contempt authority. *Dyer*, 322 F.3d at 1195.

In addition to its civil contempt authority under §105, a bankruptcy court “has inherent authority ‘to sanction a party who willfully disobeys court orders or acts in bad faith, such as willful improper conduct.’ Where a court imposes a sanction under its inherent power, it must make a finding of bad faith.” *In re Count Liberty, LLC*, 370 B.R. 259, 271-72 (Bankr. C.D. Cal. 2007). Inherent authority sanctions may be imposed “when a party has acted in bad faith, vexatiously, wantonly, or for oppressive reasons, delaying or disrupting litigation, or has taken actions in the litigation for an improper purpose.” *Fink v. Gomez*, 239 F.3d 989, 992 (9th Cir. 2001). Sanctions imposed pursuant to the Bankruptcy Court’s inherent power must be compensatory, not punitive. *Miller v. Cardinale (In re Deville)*, 280 B.R. 483, 497-98 (B.A.P. 9th Cir. 2002) *aff’d sub nom. In re DeVille*, 361 F.3d 539 (9th Cir. 2004). “[A] court may sanction pursuant to its inherent authority even when the same conduct may be punished under another sanctioning statute or rule.” *Id.* at 496. The Bankruptcy Court’s inherent sanctioning authority “is broader than Rule 9011 sanctions and ‘extends to a full range of litigation abuses.’” *Id.*

Inherent authority sanctions have been imposed against a litigant who filed a series of bankruptcy petitions and notices of removal of a state court action to the bankruptcy court to delay a state court trial and to increase the opposing side’s litigation costs, *In re Deville*, 280 B.R. at 494–96; against a litigant who engaged in several years of vexatious litigation tactics in an effort to thwart the court’s jurisdiction, *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991); and against a litigant who filed objections to gain a tactical advantage in a case pending before a different court, *In re Itel Securities Litigation*, 791 F.2d 672, 675 (9th Cir. 1986).

Pursuant to its inherent authority, the Court will issue an order requiring Debtor to appear and show cause why it should not be sanctioned in the amount of Movant’s reasonable attorney’s fees for commencing this bankruptcy case. As set forth above, the Court finds that the instant case was filed for the sole purpose of delaying trial proceedings in the State Court Action. The Court will issue the Order to Show Cause.

### **III. Conclusion**

As a procedural matter, the Court notes that Debtor's case was dismissed on November 27, 2019. The Court vacates the dismissal for the limited purpose of

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entering an order on this Motion, and to issue and resolve the order to show cause regarding sanctions and attorneys' fees.

For the reasons set forth above, the Motion is GRANTED in part, DENIED in part. Movant's request for waiver of the 14-day stay is GRANTED. All other relief requested but not specifically granted above is denied.

Movant shall upload a conforming order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Sella Care, Inc.

Represented By  
Young K Chang

**Trustee(s):**

Elissa Miller (TR)

Pro Se



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**2:18-10408 Christina Marie Uzeta**

**Chapter 7**

**#1.00** HearingRE: [51] Motion RE: Objection to Claim Number 13 by Claimant Basilio Torices, Roxanne Martinez. Notice of Motion and Motion Objecting to Proof of Claim # 13 of Basilio Torices and Roxanne Martinez, Declaration of Christina Uzeta in Support, with Proof of Service (Lally, David)

Docket 51

**Tentative Ruling:**

1/6/2020

For the reasons set forth below, the Debtor's Objection is OVERRULED, and the Motion is DENIED without prejudice.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion Objecting to Proof of Claim of Basilio Torices, Roxanne Martinez [Doc. No. 51] (the "Objection")
2. Notice of Objection to Claim [Doc. No. 54]
3. Claimants Basilio Torices and Roxanne Martinez's Opposition to Debtor Christina Uzeta's Motion Objecting to Proof of Claim Pursuant to FRBP 3007 [Doc. No. 55] (the "Opposition")
4. Reply to Opposition to Motion Objecting to Proof of Claim of Basilio Torices and Roxanne Martinez (the "Reply") [Doc. No. 56]
5. Debtor's Evidentiary Objections in Support of Reply to Opposition to Motion Objecting to Proof of Claim of Basilio Torices and Roxanne Martinez [Doc. No. 57]
6. Notice of Assets [Doc. No. 40]
7. Notice of Possible Dividend and Order Fixing Time to File Claims [Doc. No. 40]
8. Proof of Claim No. 13 [Doc. No. 55-1]

**I. Facts and Summary of Pleadings**

**A. Relevant Background Facts**

Christine Marie Uzeta (the "Debtor") filed this voluntary chapter 7 case on

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January 12, 2018 (the "Petition Date"). The Debtor's bankruptcy case was closed on July 5, 2018 and subsequently reopened on May 3, 2019. Rosendo Gonzalez was initially appointed chapter 7 trustee (the "Trustee") and re-assumed his appointment after the case was reopened. On August 14, 2019, the Trustee filed a *Notice of Assets* [Doc. No. 40]. The Court concurrently filed the *Notice of Possible Dividend and Order Fixing Time to File Claims* (the "Notice of Claims Bar Date"), which set a deadline of November 18, 2019 (the "Claims Bar Date"), for creditors to file proofs of claim.

On November 22, 2019, Basilio Torices and Roxanne Martinez ("Claimants") filed an untimely Proof of Claim No. 13 (the "Claim") in this matter, asserting a claim for \$18,900 premised upon a "Business Purchase Agreement" [Doc. No. 55-1]. *See* Claim.

### **B. The Non-Dischargeability Action**

On April 16, 2018, the Claimants initiated an adversary proceeding by filing a complaint (the "Non-Dischargeability Complaint") against Debtor, alleging that the damages they incurred in connection with Debtor's willful and malicious actions were non-dischargeable under 11 U.S.C. § 523(a)(6) (the "Non-Dischargeability Action") (Adv. Case No. 2:18-ap-01103-ER). On December 19, 2019, the Debtor received a favorable judgment on the Non-Dischargeability Complaint.

### **C. The Objection [Note 1]**

On November 25, 2019, the Debtor filed an objection to the Claim [Doc. No. 51] (the "Objection"). Based on the arguments set forth in the Objection, the Debtor argues that the Claim must be disallowed in its entirety on the following three grounds: 1) Debtor was not served with the Claim, 2) the Claim was inexcusably filed late, and 3) Debtor disputes that she owes Claimants any money. The Debtor did not address the issue of standing in the moving papers.

The Claimants filed a timely opposition asserting, among other things, that the

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Debtor failed to properly serve the Objection in adherence to FRBP 3007, which is a fatal deficiency on behalf of Debtor [Doc. No. 55]. The Opposition is supported by declarations submitted by both Claimants and their counsel of record. The Claimants further explain that the Claim was timely filed on November 18, 2019, but due to a technical misunderstanding of the Court's filing platform, the Claim was filed in a matter sharing an identical case number as this case. *See* Declaration of Nick A. Urick, ¶¶ 2-4 (attached in support of the Opposition). Claimants contend that there is "no dispute" that they are entitled to the full amount of the Claim, which is comprised of payments made to the Debtor that were never repaid. *See* Declaration of Basilio Torices, ¶¶ 6-8. Finally, as with the Debtor, the issue of standing is not discussed by the Claimants.

On December 27, 2019, the Debtor filed a timely reply and evidentiary objections against all three declarations supporting the Opposition [Doc. No. 48].

As of the date of this tentative ruling, the Trustee has not filed any response.

## **II. Findings of Fact and Conclusions of Law**

### **A. The Debtor Has Not Established Her Standing to Object to the Claim [Note 2]**

A timely filed proof of claim is deemed allowed unless a party in interest objects. 11 U.S.C. § 502(a). The term "party in interest" is not defined in the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, but courts have held that standing in a bankruptcy context requires an "aggrieved person" who is directly and adversely affected pecuniarily by an order of the bankruptcy court. *In re Lona*, 393 B.R. 1, 3 (Bankr. N.D. Cal. 2008) (citing *Fondiller v. Robertson (In re Fondiller)*, 707 F.2d 441, 442-43 (9th Cir. 1983)). Standing is a jurisdictional issue that bankruptcy courts may raise *sua sponte*. *See In re Euell*, 271 B.R. 388, 390 (Bankr. D. Col. 2002) ("Federal courts have an independent obligation to examine their own jurisdiction, and standing 'is perhaps the most important of [the jurisdictional] doctrines.'") (quoting *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 231 (1990)); *see also Menk v. LaPaglia (In re Menk)*, 241 B.R. 896, 903 (B.A.P. 9th Cir. 1999).

#### **1. The Debtor lacks standing to object to the Claim at this stage.**

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Generally, a chapter 7 debtor does not have standing to object to claims because the debtor has no interest in the distribution of assets of the estate and, therefore, is not an "aggrieved person." *Lona*, 393 B.R. at 4; *see also In re I & F Corp.*, 219 B.R. 483 (Bankr. S.D. Ohio 1998) (chapter 7 debtor lacked standing to file objections to proofs of claim). However, there are two recognized exceptions to the proposition that a chapter 7 debtor lacks standing to object to a creditor's proof of claim: (1) when disallowance of the claim would create a surplus case, with the excess amounts payable to the debtor; and (2) where the claim at issue would not be dischargeable. *See Wellman v. Ziino (In re Wellman)*, 378 B.R. 416 n. 5 (B.A.P. 9th Cir. 2007) (stating that a chapter 7 debtor has "[s]tanding to object to claims ... when there is a sufficient possibility of a surplus to give the chapter 7 debtor a pecuniary interest or when the claim involved will not be discharged."); *see also In re Lona*, 393 B.R. 1, 4 (Bankr. N.D. Cal. 2008) (citing *In re Willard*, 240 B.R. 664, 668 (Bankr. D. Conn. 1999); *Menick v. Hoffman*, 205 F.2d 365 (9th Cir. 1953)). The Ninth Circuit Bankruptcy Appellant Panel recently reaffirmed this conclusion:

In the claim objection context, a chapter 7 debtor, 'in its individual capacity, lacks standing to object unless it demonstrates that it would be 'injured in fact' by the allowance of the claim...So when the 'estate is insolvent, a chapter 7 debtor ordinarily lacks standing to object to proofs of claim.' But when 'there is a sufficient possibility of a surplus to give the chapter 7 debtor a pecuniary interest or when the claim involved will not be discharged [ ]' the chapter 7 debtor has standing.

*In re Doorman Prop. Maint.*, 2018 WL 3041128, at \*6 (B.A.P. 9th Cir. June 19, 2018) (internal citations omitted). The burden is on the debtor to provide sufficient evidence that disallowance of the contested claim will produce a surplus distribution to the debtor. *In re Walker*, 356 B.R. 834, 847 (Bankr. S.D. Fla. 2006) (citing *In re Cult Awareness Network, Inc.*, 151 F.3d 605, 608 (7th Cir. 1998)).

Here, the Debtor has failed to carry her burden to show that she is an "aggrieved person" with standing to disallow the Claim. First, the Court notes that Debtor prevailed on the Claimants' Non-Dischargeability Complaint, and as such, the full amount of the Claim will be subject to discharge. Second, the estate is presently insolvent. Accordingly, the Debtor has no right to a surplus because even discounting

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the Claim amount (\$18,900), the sum of all other claims and administrative expenses (approximately \$102,198.12) still surpasses estate assets (approximately \$48,050.48) by a significant margin [**Note 3**]. The Debtor does not explain why she has an interest in the distribution of estate assets or how her rights would be affected by the allowance or disallowance of the Claim, if at all. The Court cannot determine that the Debtor has standing because the estate is currently insolvent, and whether the Trustee will succeed in recovering additional estate funds from any other administrable assets remains unknown. In sum, the Debtor has not established standing to assert this claim objection.

### **III. Conclusion**

Based on the foregoing, Debtor's Objection is OVERRULED, and the Motion is DENIED without prejudice.

Debtor is directed to lodge a conforming proposed order, incorporating the tentative ruling by reference, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Because the Court finds that the Debtor lacks standing to object to the Claim, the Court has not included a detailed summary of the parties' substantive arguments.

**Note 2:** For the same reason stated above, the Court will not address the procedural deficiency issues, or the merits of any other of the parties' substantive arguments.

**Note 3:** The total amount of claims against the estate (\$114,023.12) reduced by the Claim amount (\$18,900) is \$95,123.12. See Claims Register. As of the preparation of this tentative ruling, the estate has generated gross receipts of \$90,000 from the sale of

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Debtor's liquor license. From such sale proceeds, the Court authorized the Trustee to pay encumbrances, liens, and exemptions totaling approximately \$41,949,52. *See* Doc. No. 48. Therefore, the estate currently possesses net receipts in the approximate sum of \$48,050.48. Separately, the Trustee is entitled to reasonable compensation of approximately \$7,075 pursuant to 11 U.S.C. § 326.

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

Christina Marie Uzeta

Represented By  
Heather J Canning  
David Brian Lally

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing re [3634] Official Committee Of Unsecured Creditors Omnibus  
Objection To Claims Filed By U.S. Bank National Association, UMB Bank, N.A.,  
And Wells Fargo Bank, National Association, As Trustees

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:19-20228 Sheila G. Scott**

**Chapter 11**

**#3.00** Hearing  
RE: [30] Notice of Motion and Motion in Individual Ch 11 Case for Order  
Employing Professional (LBR 2014-1): Douglas Elliman of California, Brielle  
Cohen as Real estate broker/agent

Docket 30

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

1/6/2020

Order entered. Hearing is VACATED.

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

Sheila G. Scott

Represented By  
Robert S Altagen



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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00 Hearing re [1572] and [1849 ] Cure Objection Asserted by Roche Diagnostics Corporation**

fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1849

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Movant(s):**

Roche Diagnostics Corporation

Represented By  
Paul J Laurin  
David M Powlen  
Kevin Collins

United States Bankruptcy Court  
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Chapter 11

#5.00 Hearing re [1572] and [1882 ] Cure Objection Asserted by **Quadramed Affinity Corporation and Picis Clinical Solutions Inc.**

fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1882

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Movant(s):**

Quadramed Affinity Corporation and

Represented By  
Schuyler Carroll  
Amir Gamliel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** Hearing re [1572] and [1949] Cure Objection Asserted by **St. Vincent IPA Medical Corporation**

fr. 4-17-19; 6-5-19, 8-7-19;9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1949

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**Movant(s):**

St. Vincent IPA Medical Corporation

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Mark A Neubauer

John Ryan Yant

Donald R Kirk

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#7.00** Hearing re [1572] and [1954] and [2066] Cure Objection Asserted by **Premier, Inc.**

fr. 4-17-19; 6-5-19, 8-7-19;9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1954

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**Movant(s):**

Premier, Inc.

Represented By

Marianne S Mortimer

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#8.00** Hearing re [1572] and [1940] Cure Objection Asserted by **Health Net of California, Inc**

fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1940

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**Movant(s):**

Health Net of California, Inc.

Represented By

Cristina E Bautista

William B Freeman



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#9.00** Hearing re [1572] and [1890] Cure Objection Asserted by **Abbott Laboratories Inc. and Alere Informatics, Inc.**

fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19; 12-30-19

fr. 12-18-19

Docket 1890

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**Movant(s):**

Abbott Laboratories Inc.

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Keith Patrick Banner  
Brian L Davidoff  
Samuel C Wisotzkey

Alere Informaties, Inc.

Represented By  
Brian L Davidoff

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#10.00** Hearing re [1572] and [1863 ] Cure Objection Asserted by **GE HFS, LLC**  
fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1863

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Movant(s):**

GE HFS, LLC

Represented By  
John Mark Jennings  
Lisa M Peters  
Lisa M Peters

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Tuesday, January 7, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#11.00 Hearing re [1572] and [2157 ] Cure Objection Asserted by **Nantworks LLC**

fr. 4-17-19; 6-5-19; 7-10-19, 8-7-19; 8-21-19; 9-4-19; 10-9-19; 10-23-19; 11-6-19;  
11-20-19; 11-20-19; 12-4-19; 12-11-19; 12-18-19; 12-30-19

Docket 2157

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**Movant(s):**

NantHealth, Inc.

Represented By

Bruce Bennett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#12.00** Hearing re [1572] and [1873 ] Cure Objection Asserted by **Smith & Nephew, Inc.**

fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1873

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Movant(s):**

Smith & Nephew, Inc.

Represented By  
Kevin M Eckhardt  
Shannon E Daily  
Robert A Rich



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#13.00 Hearing re [1572] and [1866] Cure Objection Asserted by Kaiser Foundation Hospitals**

fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1866

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Movant(s):**

Kaiser Foundation Hospitals

Represented By  
Christopher E Prince

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#14.00** Hearing re [1572] and [1850] Cure Objection Asserted by **Cigna Healthcare of California, Inc., and Llife Insurance Company of North America**

fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1850

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**Movant(s):**

Cigna Healthcare of California, Inc.,

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

William M Rathbone  
Jeffrey C Wisler

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#15.00** Hearing re [1572] and [1965] and [2162] Cure Objection Asserted by **SCAN Health Plan**

fr. 4-1-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1965

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**Movant(s):**

SCAN Health Plan

Represented By

Karl E Block

Daniel B Besikof

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#16.00** Hearing re [1572] and [1930 ] Cure Objection Asserted by **Aetna Life Insurance Company**

fr. 4-17-19; 6-5-19, 8-7-19;9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1930

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**Movant(s):**

Aetna Life Insurance Company

Represented By

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Jeffrey C Krause

Payam Khodadadi

**Chapter 11**



**United States Bankruptcy Court  
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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#17.00 Hearing re [1572] and [2144 ] Cure Objection Asserted by AppleCare Medical Group St. Francis, Inc., Interested Party All Care Medical Group, Inc.**

fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

FR. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 2144

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, January 7, 2020**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Steven J Kahn

**Movant(s):**

All Care Medical Group, Inc.

Represented By

Bryan L Ngo

Susan I Montgomery

AppleCare Medical Group St.

Represented By

Susan I Montgomery

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#18.00** Hearing re [1572] and [1858] Cure Objection Asserted by UnitedHealthcare Ins. Co

fr. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#19.00** Hearing re [1572] and [1857] and [2144] Cure Objection Asserted by  
**AppleCare Medical Group, Inc.  
AppleCare Medical Group, St. Francis Inc.  
AppleCare Medical Management, LLC**

fr. 4-17-19; 6-5-19, 8-7-19; 9-4-19

fr. 9-30-19

fr. 10-16-19

fr. 10-30-19

fr. 12-4-19

fr. 12-18-19; 12-30-19

Docket 1857

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, January 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Steven J Kahn

**Movant(s):**

AppleCare Medical Group

Represented By  
Latonia Williams  
Susan I Montgomery

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, January 7, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-10616 Manuel Macias**

**Chapter 7**

Adv#: 2:19-01128 Krasnoff, Chapter 7 Trustee v. Estrada et al

**#100.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01128. Complaint by Brad D. Krasnoff, Chapter 7 Trustee against Janet Estrada, Steven Molina. (Charge To Estate). -Complaint to Avoid Voidable Transactions and for Turnover Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)) (D'Alba, Michael)

fr. 7-16-19; 10-15-19; 11-5-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-19-20 AT 11:00 A.M.**

**Tentative Ruling:**

7/15/2019

Default was entered against both Defendants on June 19, 2019. Having reviewed Plaintiff's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") by no later than **August 16, 2019**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are VACATED.
- 3) A continued Status Conference shall be held on **October 15, 2019, at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should

**United States Bankruptcy Court  
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11:00 AM

**CONT... Manuel Macias**

**Chapter 7**

an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Manuel Macias

Represented By  
Jennifer Ann Aragon - SUSPENDED -

**Defendant(s):**

Janet Estrada

Pro Se

Steven Molina

Pro Se

**Plaintiff(s):**

Brad D. Krasnoff, Chapter 7 Trustee

Represented By  
Michael G D'Alba

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, January 7, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-10616 Manuel Macias**

**Chapter 7**

Adv#: 2:19-01128 Krasnoff, Chapter 7 Trustee v. Estrada et al

**#101.00** Hearing  
RE: [43] Motion to set aside RE: Entry of defaults against Janet Estrada and Steven Molina

FR. 11-5-19

Docket 43

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-19-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Manuel Macias

Represented By  
Jennifer Ann Aragon - SUSPENDED -

**Defendant(s):**

Janet Estrada

Represented By  
Todd L Turoci

Steven Molina

Represented By  
Todd L Turoci

**Plaintiff(s):**

Brad D. Krasnoff, Chapter 7 Trustee

Represented By  
Michael G D'Alba

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, January 7, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#102.00** HearingRE: [19] Motion to Dismiss Adversary Proceeding

Docket 19

**Tentative Ruling:**

1/6/2020

For the reasons set forth below, the Motion to Dismiss is GRANTED, with leave to amend.

**Pleadings Filed and Reviewed:**

- 1) First Amended Complaint Objecting to Discharge Pursuant to 11 U.S.C. § 523(a)(2)(A) and (6) (the "Complaint") [Doc. No. 12]
- 2) Motion for Order Dismissing First Amended Complaint Pursuant to Federal Rule of Civil Procedure § 12(b)(6) and Federal Rule of Bankruptcy Procedure § 7012(b) (the "Motion") [Doc. No. 19]
- 3) Opposition to Debtor's Motion to Dismiss First Amended Complaint Pursuant to Rule 12(b)(6) (the "Opposition") [Doc. No. 26]
- 4) Defendant's Reply to Opposition to Motion to Dismiss Under FRCP 12(b)(6) (the "Reply") [Doc. No. 27]

**I. Facts and Summary of Pleadings**

On March 6, 2008, Miguel Hernandez Cruz (the "Plaintiff") filed a complaint in the Los Angeles Superior Court (the "State Court") against Shamin Ahemmed (the "Defendant") and North End Pizzeria, asserting claims for wage and hour violations (the "State Court Complaint"). On June 16, 2009, the State Court entered judgment in favor of Plaintiff and against Defendant and North End Pizzeria (the "State Court Judgment"). The State Court Judgment provides that Defendant and North End Pizzeria are jointly and severally liable to Plaintiff in the amount of \$107,100 for uncompensated overtime, \$71,260 for uncompensated double time hours, and \$124,866 in prejudgment interest.

On June 17, 2019, Defendant filed a voluntary Chapter 7 petition. On September 23, 2019, Plaintiff timely filed a *Complaint Objecting to Discharge Pursuant to 11*

**United States Bankruptcy Court  
Central District of California  
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11:00 AM

**CONT... Shamim Ahemmed**

**Chapter 7**

*U.S.C. § 523(a)(6)* (the "Original Complaint") [Doc. No. 1]. After Plaintiff filed a motion to dismiss the Original Complaint for failure to state a claim upon which relief could be granted, Defendant filed the operative *First Amended Complaint Objecting to Discharge Pursuant to 11 U.S.C. § 523(a)(2)(A) and (6)* (the "Complaint") [Doc. No. 12] as of right, pursuant to Civil Rule 15(a)(1)(B).

The Complaint alleges that the indebtedness established by the State Court Judgment is non-dischargeable pursuant to § 523(a)(2)(A) and (a)(6). The material allegations of the Complaint are as follows:

The [State Court Judgment] was based on the following facts: Plaintiff was employed by the Defendant as a worker in Defendant's business known as North End Pizzeria, located in Los Angeles County. Plaintiff was employed between 2000 and 2008. He worked on average 70 hours a week and was only [paid] regular minimum hourly wages....

Plaintiff alleges that Defendant knew that he intentionally and illegally failed to pay Plaintiff lawful wages, that he took advantage of Plaintiff's outstanding work ethic, required Plaintiff work excessive hours without just compensation, and by failing to pay Plaintiff the lawful wages he was entitled to receive willfully and maliciously victimized Plaintiff without just cause or excuse, knowing at the time Defendant was so behaving he had a duty to obey the law and pay Plaintiff the lawful wages he was entitled to receive.

Complaint at ¶¶ 7 and 11.

Plaintiff moves to dismiss the Complaint for failure to state a claim upon which relief can be granted, pursuant to Civil Rule 12(b)(6). Plaintiff makes the following arguments in support of the Motion:

- 1) The Complaint fails to state a claim under § 523(a)(2)(A). The Complaint fails to allege that (a) Defendant made a false representation, (b) that Defendant knew the representation was false at the time it was made, (c) that Defendant made the representation with the purpose and intent of deceiving Plaintiff, (d) that Plaintiff relied upon the representation, or (e) that Plaintiff sustained damages as a result of the representation.
- 2) The Complaint fails to state a claim under § 523(a)(6). The Complaint does not allege any facts showing that Defendant had a subjective motive to inflict injury upon Plaintiff, or that Defendant harbored a subjective belief that injury

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was substantially certain. The facts alleged in the Complaint are sufficient only to show that a breach of contract occurred.

Defendant opposes the Motion and makes the following arguments in support of his Opposition:

- 1) The Court must give preclusive effect to the State Court Judgment. The State Court Complaint asserted a claim for fraud. The State Court Judgment provides that Defendant is liable to Plaintiff on each of the claims for relief alleged in the State Court Complaint. The Complaint incorporates the State Court Judgment by reference. Because the State Court Judgment is based in part upon fraud, the Complaint sufficiently states claims under § 523(a)(2)(A) and (a)(6).
- 2) In the event the Court determines that the Complaint is not sufficiently pleaded, Plaintiff should be given leave to amend.

Plaintiff makes the following arguments in Reply to the Defendant's Opposition:

- 1) The State Court Judgment contains no findings of fact stating that the Defendant engaged in fraud. The State Court's Minute Order providing that judgment would be entered in Plaintiff's favor contains no finding of fraud. The State Court entered the State Court Judgment in the form proposed by Plaintiff. The reason that Plaintiff did not include a finding of fraud in the proposed form of judgment is that the State Court did not find that Defendant had engaged in fraud. Consequently, the State Court Judgment is not entitled to preclusive effect.
- 2) Plaintiff's Opposition quotes extensively from the State Court Complaint. Plaintiff cannot rely upon mere allegations to establish that Defendant engaged in fraud where there is no indication that the State Court made any findings as to the alleged fraud.
- 3) Plaintiff's Opposition does not address the sufficiency of the Complaint's allegations under § 523(a)(6). Plaintiff has apparently abandoned his argument with respect to the adequacy of those allegations.
- 4) Plaintiff has already amended the Complaint once. Plaintiff should not be provided an additional opportunity to amend.

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## II. Findings and Conclusions

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.' A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citations omitted). To state a plausible claim for relief, a complaint must satisfy two working principles:

First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitations of the elements of a cause of action, supported by mere conclusory statements, do not suffice.... Second, only a complaint that states a plausible claim for relief survives a motion to dismiss. Determining whether a complaint states a plausible claim for relief will ... be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not "show[n]"—"that the pleader is entitled to relief."

*Id.* (citing Civil Rule 8(a)(2)).

Although the pleading standard Civil Rule 8 announces "does not require 'detailed factual allegations,' ... it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.... A pleading that offers 'labels and conclusions' or a 'formulaic recitation of the elements of a cause of action will not do.' Nor does a complaint suffice if it tenders 'naked assertion[s]' devoid of 'further factual enhancement.'" *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

### **A. The Complaint Fails to State a Claim Under § 523(a)(2)(A)**

Section 523(a)(2)(A) provides: "A discharge under section 727 ... of this title does not discharge an individual debtor from any debt for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition."

To state a claim for relief under § 523(a)(2)(A), a complaint must plausibly allege facts sufficient to enable the Court to draw the reasonable inference that the Defendant (1) made a representation (2) that the Defendant knew was false (3) for the purpose of

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deceiving the Plaintiff, and that (4) the Plaintiff relied upon the representation and (5) sustained damages as the proximate result of the misrepresentation having been made. *Ghomeshi v. Sabban (In re Sabban)*, 600 F.3d 1219, 1222 (9th Cir. 2010).

Rather than specifically alleging facts necessary to establish the elements of § 523(a)(2)(A), the Complaint incorporates by reference the State Court Complaint. Such incorporation by reference does provide Defendant sufficient notice of the misconduct alleged. To state a claim under § 523(a)(2)(A), the Complaint must allege specific facts showing that Defendant engaged in conduct sufficient to establish liability under § 523(a)(2)(A). Those specific facts must be set forth in the body of the Complaint. Plaintiff's attempt to allege the elements of his claims through incorporation by reference of the State Court Complaint, which contains numerous allegations unrelated to Plaintiff's claims under § 523(a)(2)(A), makes it unreasonably difficult for Defendant to defend against the Complaint. The Complaint requires Defendant to guess at which of the allegations in the State Court Complaint pertain to the Plaintiff's § 523(a)(2)(A) claim.

**B. The Complaint Fails to State a Claim Under § 523(a)(6)**

"Section 523(a)(6) excepts from discharge debts arising from a debtor's 'willful and malicious' injury to another person or to the property of another. The 'willful' and 'malicious' requirements are conjunctive and subject to separate analysis." *Plyam v. Precision Development, LLC (In re Plyam)*, 530 B.R. 456, 463 (9th Cir. B.A.P. 2015) (internal citations omitted).

An injury is "willful" when "a debtor harbors 'either subjective intent to harm, or a subjective belief that harm is substantially certain.' The injury must be deliberate or intentional, 'not merely a deliberate or intentional act that leads to injury.'" *Id.* at 463 (internal citations omitted). When determining intent, there is a presumption that the debtor knows the natural consequences of his actions. *Ormsby v. First Am. Title Co. of Nevada (In re Ormsby)*, 591 F.3d 1199, 1206 (9th Cir. 2010). An injury is "malicious" if it "involves '(1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse.'" *Carrillo v. Su (In re Su)*, 290 F.3d 1140, 1146–47 (9th Cir. 2002) (internal citations omitted). "Within the plain meaning of this definition, it is the wrongful act that must be committed intentionally rather than the injury itself." *Jett v. Sicroff (In re Sicroff)*, 401 F.3d 1101, 1106 (9th Cir. 2005).

The Complaint's cause of action under § 523(a)(6) fails for the same reason as the cause of action under § 523(a)(2)(A). That is, the Complaint fails to allege specific

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facts showing that Defendant inflicted injury upon the Plaintiff, and that Defendant intended to inflict the injury or harbored a subjective belief that the injury was substantially certain. It is not sufficient for Plaintiff to attempt to allege his § 523(a)(6) claim by incorporating the State Court Complaint by reference.

**C. Plaintiff is Granted Leave to Amend**

To dismiss a complaint without leave to amend, the Court must find that “amendment would be futile.” *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011). As it may be possible for Plaintiff to allege facts stating claims under § 523(a)(2)(A) and (a)(6), the Court will grant Plaintiff leave to amend. However, in the event that Plaintiff’s Second Amended Complaint fails to state claims under these sections, the Court will most likely not grant further leave to amend.

**III. Conclusion**

Based upon the foregoing, the Motion is GRANTED, but Plaintiff is given leave to amend. Plaintiff shall file a Second Amended Complaint by no later than **January 21, 2020**. Upon the filing of the Second Amended Complaint, the Clerk of the Court will issue an updated Scheduling Order establishing the litigation deadlines that shall govern this action.

Defendant shall submit a proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Shamim Ahemmed

Represented By  
Julie J Villalobos

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**Defendant(s):**

Shamim Ahemmed

Represented By  
Lawrence R Fieselman  
Julie J Villalobos

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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**2:18-13131 Dwight Gregory Stephens**

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**#103.00** HearingRE: [149] Motion For Final Decree and Order Closing Case. (with proof of service)

Docket 149

**Tentative Ruling:**

1/6/2020

For the reasons set forth below, the Motion is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Motion in Chapter 11 Case for Entry of A Final Decree and Order Closing Case [Doc. No. 149] (the "Motion")
- 2) Debtors Post-Confirmation Status Report #1 [Doc. No. 151]
- 3) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 27, 2019, the Court confirmed the Debtor's *Second Amended Individual Debtor's Chapter 11 Plan of Reorganization* (the "Plan") [Doc. No. 114]. Doc. No. 130. The Plan provides for the Debtor to make payments to creditors over a 60-month period.

The Debtor seeks entry of a final decree and an order administratively closing the case. The Debtor intends to file a motion to reopen the case and seek entry of a discharge once all payments to creditors have been made.

**II. Findings and Conclusions**

Pursuant to § 350(a) and Bankruptcy Rule 3022, the Court shall enter a final decree closing a chapter 11 case after the estate is fully administered. In determining whether an estate is fully administered, a court should consider:

- (1) whether the order confirming the plan has become final;
- (2) whether deposits required by the plan have been distributed;
- (3) whether the property proposed by the plan to be transferred has been transferred;



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- (4) whether the debtor or the successor of the debtor under the plan has assumed the business of the management of the property dealt with by the plan;
- (5) whether payments under the plan have commenced; and
- (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.

*In re Ground Systems, Inc.*, 213 B.R. 1016, 1019 (9th Cir. BAP 1997), quoting Fed. R. Bankr. P. 3022 advisory committee's notes (1991).

Here, the order confirming the Plan has become final, the Debtor has commenced making payments under the Plan, and there are no pending adversary proceedings or contested matters. The Court finds that entry of a final decree is appropriate.

Upon completion of all payments under the Plan, the Debtor shall file a motion to reopen the case, followed by a motion seeking entry of a discharge.

A Post-Confirmation Status Conference is currently scheduled for January 22, 2020, at 10:00 a.m. Having reviewed the *Debtors' Post-Confirmation Status Report # 1*, the Court finds that the Debtor is performing under the Plan. The Post-Confirmation Status Conference is taken off calendar. Unless otherwise ordered by the Court, no further Post-Confirmation Status Conferences will be conducted.

Based upon the foregoing, the Motion is GRANTED. The Debtor shall submit a proposed order, incorporating this tentative ruling by reference, within seven days of the hearing. The Court will prepare and enter an order taking the Post-Confirmation Status Conference off calendar.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Dwight Gregory Stephens

Represented By  
Marcus G Tiggs

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**2:18-20698 United International Mortgage Solutions, Inc.**

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**#104.00** HearingRE: [142] Motion Notice of Motion and Motion for Order: (1) Authorizing Debtor to Obtain Postpetition Financing of its Real Property (6205 Senford Ave., Los Angeles, CA 90056) Pursuant to 11 U.S.C. §§ 363 and 364; (2) Granting Lien to Postpetition Lender Pursuant to 11 U.S.C. §364 and (3) Authorizing Payment of Secured Debt; Declaration of Sandra McBeth in Support Thereof, with Proof of Service

Docket 142

**Tentative Ruling:**

1/6/2020

For the reasons set forth below, the Financing Motions are GRANTED.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for Order: (1) Authorizing Debtor to Obtain Postpetition Financing of its Real Property (6205 Senford Avenue, Los Angeles) Pursuant to 11 U.S.C. §§ 363 and 364; (2) Granting Lien to Postpetition Lender Pursuant to § 364 and (3) Authorizing Payment of Secured Debt [Doc. No. 142] (the "Senford Property Financing Motion")
2. Notice of Motion and Motion for Order: (1) Authorizing Debtor to Obtain Postpetition Financing of its Real Property (1258 N. Virgil Avenue, Los Angeles) Pursuant to 11 U.S.C. §§ 363 and 364; (2) Granting Lien to Postpetition Lender Pursuant to § 364 and (3) Authorizing Payment of Secured Debt [Doc. No. 143] (the "Virgil Property Financing Motion")
3. Response to Motion for Order: (1) Authorizing Debtor to Obtain Postpetition Financing of its Real Property (1258 N. Virgil Avenue, Los Angeles) Pursuant to 11 U.S.C. §§ 363 and 364; (2) Granting Lien to Postpetition Lender Pursuant to § 364 and (3) Authorizing Payment of Secured Debt [Doc. No. 146]
4. Response to Motion for Order: (1) Authorizing Debtor to Obtain Postpetition Financing of its Real Property (1258 N. Virgil Avenue, Los Angeles) Pursuant to 11 U.S.C. §§ 363 and 364; (2) Granting Lien to Postpetition Lender Pursuant to § 364 and (3) Authorizing Payment of Secured Debt & Motion for Order: (1) Authorizing Debtor to Obtain Postpetition Financing of its Real Property (1258 N. Virgil Avenue, Los Angeles) Pursuant to 11 U.S.C. §§ 363 and 364; (2) Granting

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Lien to Postpetition Lender Pursuant to § 364 and (3) Authorizing Payment of Secured Debt [Doc. No. 148]

5. As of the preparation of this tentative ruling, no other response or opposition is on file

### **I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, United International Mortgage Solutions, Inc. (the "Debtor"), filed this voluntary chapter 11 case on September 12, 2018 (the "Petition Date"). The Debtor is a California corporation that owns three residential real properties:

- i. 1258 N. Virgil Avenue, Los Angeles, CA 90029 (the "Virgil Property");
- ii. 5935 Playa Vista Dr., #414, Playa Vista, CA 90094 (the "Playa Vista Property"); and
- iii. 6205 Senford Avenue, Los Angeles, CA 90056 (the "Senford Property," and together with the Virgil Property and Playa Vista Property, the "Properties").

The Virgil Property is a 5-unit residential rental property with a stated fair market value of \$1,300,000. *See* Doc. No. 8. The Debtor asserts that the Virgil Property is encumbered by an \$882,107 secured senior lien in favor of Seterus Inc. ("Seterus") and a \$50,000 junior lien in favor of Errol Gordon ("Mr. Gordon"). The Debtor states that it currently collects \$4,248.62 in monthly rent from the Virgil Property. On December 7, 2018, this Court entered an order granting Seterus' motion for relief from the automatic stay to proceed with a nonbankruptcy foreclosure with respect to the Virgil Property [Doc. No. 51].

The Senford Property is a single-family residence with an alleged fair market value of \$1,000,000. *See* Doc. No. 8. According to the Debtor, the Senford Property is subject to a \$285,000 senior lien held by Mr. Gordon and a property tax lien in the amount of \$97,939 held by the Los Angeles County Treasurer and Tax Collector (the "LACTTC").

On December 3, 2019, the Debtor concurrently filed two post-petition financing motions implicating interests in the Virgil and Senford Properties (respectively, the

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"Virgil Property Financing Motion" and the "Senford Property Financing Motion") (collectively, the "Financing Motions"). By way of the Virgil Property Financing Motion, the Debtor seeks authorization: (i) to obtain a \$971,615 refinance loan from Equity Wave Financing ("Equity") pursuant to §§ 363 and 364, (ii) grant Equity a first-priority deed of trust against the Virgil Property, and (iii) pay off both Seterus' (\$882,107) and Mr. Gordon's liens in full (\$50,000).

The material terms of the refinance loan are as follows:

Loan Amount: \$971,615  
Term: 3-year Fixed Rate Mortgage  
Interest Rate: 8.50-9.50%

See Virgil Property Financing Motion, Ex. A. In addition, Mr. Gordon delivered to the Debtor an e-mail confirmation, accepting \$50,000 in satisfaction for his junior lien against the Virgil Property. See *id.*, Ex. B. Next, as set forth in the Senford Property Financing Motion, the Debtor seeks authorization: (i) to obtain a post-petition finance loan of \$320,000 from Equity pursuant to §§ 363 and 364, (ii) grant Equity a second-priority deed of trust against the Senford Property (junior to Mr. Gordon's senior lien of \$285,000), and (iii) reinstate the property tax lien owed to the LACTTC in the sum of \$97,939. The Debtor states that Equity is unrelated to the Debtor and its insiders or affiliates.

The material terms of the financing loan are as follows:

Loan Amount: \$320,000  
Term: 40-year amortization; 3-year balloon  
Interest Rate: 7.25%  
Lender Fee: \$1,495

See Senford Property Financing Motion, Ex. A.

Furthermore, the Debtor asserts that remaining loan proceeds will be deposited in a DIP bank account, along with the balance of the Virgil Property refinance loan, and applied against the following claims in full, as follows:

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- i. Internal Revenue Service ("IRS"): \$400 (Claim No. 3);
- ii. Franchise Tax Board ("FTB"): \$2,542 (Claim No. 2);
- iii. Playa Vista Parks HOA ("Playa HOA"): \$70,080 (Claim No. 4);
- iv. Villa d'Este HOA ("Villa"): \$31,855 (Claim No. 6).

The Debtor argues that the above-described post-petition financing is in the best interests of all creditors and the estate as it will enable it to fully pay-off both lienholders on the Virgil Property, resolve the upcoming foreclosure matter with Seterus, address LACTTC's property tax lien on the Senford Property, and generate sufficient funds to pay outstanding debts in full. The Debtor's vice president and 40% shareholder, Sandra McBeth provided a declaration in support of the Financing Motions stating that she has spent numerous hours and expended good faith efforts attempting to get financing and believes that these loans are the best that the Debtor can do.

Responses to the Financing Motions

On December 12, 2019, Nationstar Mortgage LLC dba Mr. Cooper ("Nationstar") filed a response to the Virgil Property Financing Motion. Nationstar states that it does not oppose the Virgil Property Financing Motion, provided that Nationstar is fully paid at the time of the "closing of the sale." Accordingly, Nationstar requests that the Court include certain language in its final order requiring that Nationstar's lien "...will be paid in full as of the closing of the sale, and the sale will be conducted through an escrow and based on a non-expired contractual payoff statement received directly from [Nationstar]." Secured creditor, Villa d'Este Maintenance Corporation ("Villa"), lodged a similar response on December 20, 2019. Villa acknowledges that the Financing Motions will enable Debtor to pay off four creditors, including Villa. However, Villa is concerned that Debtor has not affirmatively expressed an intention to use the borrowed funds to satisfy these claims. As such, Villa does not object to the Financing Motions insofar that the Court issue orders requiring Debtor to pay creditors from the loan proceeds.

As of the preparation of this tentative ruling, there is no substantive opposition on file.

**II. Findings of Fact and Conclusions of Law**

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Section 364 governs the obtaining of credit or incurring of debt by a debtor in possession and sets forth the incentives that may be offered to induce potential lenders to extend post-petition credit. *In re Stanton*, 248 B.R. 823, 828 (B.A.P. 9th Cir. 2000) *aff'd*, 285 F.3d 888 (9th Cir. 2002) *opinion amended and superseded on denial of reh'g*, 303 F.3d 939 (9th Cir. 2002) and *aff'd*, 303 F.3d 939 (9th Cir. 2002). Section 364 provides in relevant part:

(c) If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—

- (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;
- (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
- (3) secured by a junior lien on property of the estate that is subject to a lien.

(d)(1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if—

- (A) the trustee is unable to obtain such credit otherwise; and
- (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

(2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

Based on its review of the declaration of Debtor's vice-president, Sandra McBeth, the Court determines that the Debtor has been unable to obtain financing on terms more favorable to the terms of the Equity loans, and thereby the Financing Motions are in the best interests of creditors and the estate. Secured creditors will be adequately protected because loan proceeds will be sufficient to pay all secured claims and tax liens in full, with the exception of Mr. Gordon's \$285,000 senior lien against the Senford Property. Based on the material terms of the Equity loans, the Debtor will obtain loan proceeds in the approximate sum of \$1,291,615, which will be sufficient to pay both secured liens encumbering the Virgil Property (totaling \$932,107) [**Note 1**], as well as fully satisfying secured claims held by the IRS, the FTB, Playa HOA,

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and Villa (totaling \$104,877). The Court further finds that Mr. Gordon's lien will be adequately protected as it will retain its senior priority over the proposed Equity lien. In any case, as indicated by his confirmation e-mail attached as Exhibit B to the Virgil Property Financing Motion, Mr. Gordon approved Debtor's proposed refinance of the Virgil Property and did not object to the Senford Property Financing Motion [**Note 2**].

### **III. Conclusion**

Based on the foregoing, the Financing Motions are GRANTED. As set forth above, the Debtor shall distribute the proceeds generated from the Equity loans to secured creditors and pay any reasonable fees and costs associated with closing the Equity loans. To expedite the closing of the financing loans, the order approving the Financing Motions shall take effect immediately upon entry, notwithstanding Bankruptcy Rule 6004(h). All other relief requested but not specifically granted above is denied.

The Debtor shall submit two conforming orders, one for each of its motions, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor identifies the senior lienholder on the Virgil Property as Seterus, but Nationstar has previously filed briefing in this case stating that it is the first-priority lienholder on the Virgil Property by virtue of a recorded first deed of trust on the property. *See, e.g.*, Doc. No. 118. In its response, Nationstar re-asserts this claim, but neither Debtor nor Nationstar have explained this discrepancy. Consequently, the Court remains unclear as to the identity of the party validly holding the senior lien on the Virgil Property. To the extent that these parties understand this ambiguity, the Court directs the Debtor to pay all liens encumbering the Virgil Property in full, as



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contemplated in the moving papers.

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**Note 2:** The Court deems the failure to file a response or opposition as consent to granting the Financing Motions pursuant to Local Bankruptcy Rule 9013-1(h).

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

United International Mortgage

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia

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**2:18-20698 United International Mortgage Solutions, Inc.**

**Chapter 11**

**#105.00** HearingRE: [143] Motion Notice of Motion and Motion for Order: (1) Authorizing Debtor to Obtain Postpetition Financing of its Real Property (1258 N. Virgil Ave., Los Angeles, CA) Pursuant to 11 U.S.C. §§363 and 364; (2) Granting Lien to Postpetition Lender Pursuant to 11 U.S.C. §364 and (3) Authorizing Payment of Secured Debt; Declaration of Sandra McBeth in Support Thereof, with Proof of Service

Docket 143

**Tentative Ruling:**

1/6/2020

See Cal. No. 104, incorporated in full by reference.

**Party Information**

**Debtor(s):**

United International Mortgage

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-16078 David Christopher Brady**

**Chapter 11**

**#106.00** HearingRE: [98] Application for Compensation for Leslie A Cohen, Debtor's Attorney, Period: 5/24/2019 to 11/30/2019, Fee: \$69,633.00, Expenses: \$1,643.50.

Docket 98

**Tentative Ruling:**

1/6/2020

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$69,633.00

Expenses: \$1,643.50

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Jessica Vogel at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

David Christopher Brady

Represented By  
Leslie A Cohen

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 7, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-10616 Manuel Macias**

**Chapter 7**

**#107.00** HearingRE: [42] Motion to Approve Compromise Under Rule 9019 Trustee's Notice of Motion and Motion to Approve Compromise; Memorandum of Points and Authorities, Declaration of Brad D. Krasnoff, and Request for Judicial Notice in Support Thereof with Proof of Service (D'Alba, Michael)

Docket 42

**Tentative Ruling:**

1/6/2020

For the reasons set forth below, the Settlement Agreement is APPROVED and the Motion is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Trustee's Notice of Motion and Motion to Approve Compromise (the "Motion") [Doc. No. 42]
  - a) Notice of Hearing on Trustee's Motion to Approve Compromise [Doc. No. 43]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

The Chapter 7 Trustee (the "Trustee") seeks approval of a settlement agreement between the estate, on the one hand, and Steven Molina and Janet Estrada (collectively, the "Defendants"), on the other hand (the "Settlement Agreement"). No opposition to the Motion is on file.

On May 1, 2019, the Trustee filed a complaint against the Defendants (the "Complaint"), seeking to avoid and recover the transfer of property commonly known as 11468 Esther Street, Norwalk, CA 90650 (the "Norwalk Property"). The material allegations of the Complaint are as follows:

- 1) As of July 7, 2011, the Debtor held fee title to the Norwalk Property. By a grant deed recorded in Los Angeles County on May 23, 2012, the Debtor transferred the Norwalk Property to himself and Janet Estrada (the "2012 Transfer"). The grant deed described the 2012 Transfer as a bona fide gift for which the grantor received nothing in return.

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**Manuel Macias**

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- 2) By a grant deed recorded in Los Angeles County on November 24, 2015, the Debtor and Estrada transferred the Norwalk Property to the Debtor, Estrada, and Steven Molina (the "2015 Transfer"). The grant deed described the 2015 Transfer as a bona fide gift for which the grantor received nothing in return.
- 3) By a grant deed recorded in Los Angeles County on October 3, 2016, the Debtor, Molina, and Estrada transferred the Norwalk Property to Molina and Estrada (the "2016 Transfer," and together with the 2012 Transfer and the 2015 Transfer, the "Transfers"). The grant deed described the 2016 Transfer as a bona fide gift for which the grantor received nothing in return.

Based upon the foregoing allegations, the Complaint seeks avoidance of the Transfers and turnover of the Norwalk Property, pursuant to §§ 542, 544(b), 548(a)(1)(A), and 548(a)(1)(B), and 550(a).

On June 19, 2019, the Clerk of the Court entered defaults against both Defendants. After the Defendants opposed the Trustee's Motion for Default Judgment, the Court ordered the Defendants to file motions to set aside their defaults. The hearing on Defendants' motions to set aside their defaults have been continued to allow the Trustee and the Defendants to negotiate the Settlement Agreement.

The material terms of the Settlement Agreement are as follows:

- 1) Defendants will transfer the Norwalk Property to the Trustee by quitclaim deed.
- 2) The Trustee will market and sell the Norwalk Property with the assistance of a Court-approved real estate broker.
- 3) Net sale proceeds of the Norwalk Property will be split 50%-50% between the Trustee and the Defendants.
- 4) While the Norwalk Property is being marketed, Defendants will be permitted to collect rental income from tenants residing at the Norwalk Property. Defendants will be required to remain current on the property's mortgage, taxes, and insurance.

## **II. Findings and Conclusions**

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c)

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**Manuel Macias**

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the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Settlement Agreement is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

*Complexity of the Litigation*

This factor weighs in favor of approving the Settlement Agreement. Although not especially complex, prosecution of the litigation would still result in the accrual of administrative costs that would reduce the recovery to unsecured creditors.

*Probability of Success on the Merits*

This factor weighs in favor of approving the Settlement Agreement. The Defendants have asserted that the Trustee's § 544 claim fails with respect to the 2012 Transfer because there is no creditor who could avoid that transfer under applicable state law. The Defendants have raised colorable arguments and there can be no certainty that the Trustee would prevail in the litigation.

*Paramount Interests of Creditors*

This factor weighs in favor of approving the Settlement Agreement. The Settlement Agreement will generate funds for the estate while avoiding additional costly litigation.

The possibility that additional litigation might yield a result nominally more favorable to the estate cannot be ruled out. Yet any such result obtained through litigation would be a pyrrhic victory from the perspective of the estate and creditors, because the additional administrative costs associated with the litigation would on net leave the estate worse off.

*Difficulties To Be Encountered in the Manner of Collection*

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**CONT... Manuel Macias**

**Chapter 7**

The subject of the action is the Norwalk Property, against which the Trustee has recorded a *lis pendens*. This factor is neutral.

**III. Conclusion**

Based upon the foregoing, the Motion is GRANTED and the Settlement Agreement is APPROVED. Within seven days of the hearing, the Trustee shall submit a proposed order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Manuel Macias

Represented By

Jennifer Ann Aragon - SUSPENDED -

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By

Eric P Israel

Michael G D'Alba

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Wednesday, January 8, 2020

Hearing Room 1568

10:00 AM

**2:15-16111 Jung Hee Choi**

**Chapter 7**

Adv#: 2:15-01381 DOOIN INDUSTRIAL CORPORATION, a foreign corporatio v. Choi

**#1.00** Hearing re [110] Application for Appearance and Examination/Enforcement of Judgment/Judgment Debtor ***Sun Kyung Lee, aka Sunny Lee, dba Piussance Textile Company.***

Docket 0

**Tentative Ruling:**

1/7/2020

**Tentative Ruling:**

Appearances required.

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

Jung Hee Choi

Represented By  
Kelly K Chang

**Defendant(s):**

Jung Hee Choi

Pro Se

**Plaintiff(s):**

DOOIN INDUSTRIAL

Represented By  
Nico N Tabibi

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se



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**Hearing Room 1568**

10:00 AM

**2:15-16111 Jung Hee Choi**

**Chapter 7**

Adv#: 2:15-01381 DOOIN INDUSTRIAL CORPORATION, a foreign corporatio v. Choi

**#2.00** Hearing re re [109] Appearance and Examination/Enforcement of Judgment/Judgment debtor ***JUNG HEE CHOI, AKA JUNG HEE LEE, DBA THE HUGE TREE***

Docket 0

**Tentative Ruling:**

1/7/2020

**Tentative Ruling:**

Appearances required.

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

**Debtor(s):**

Jung Hee Choi

Represented By  
Kelly K Chang

**Defendant(s):**

Jung Hee Choi

Pro Se

**Plaintiff(s):**

DOOIN INDUSTRIAL

Represented By  
Nico N Tabibi

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
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Wednesday, January 8, 2020

Hearing Room 1568

10:00 AM

2:19-12822 Yelena Ladanyi

Chapter 7

#3.00 APPLICANT: Jason M. Rund, Trustee

Hearing re [19] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

1/7/2020

**Tentative Ruling:**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$500 [*see* Doc. No. 18]

Total Expenses: \$43.90 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Yelena Ladanyi

Represented By  
Christie Cronenweth

**Trustee(s):**

Jason M Rund (TR)

Pro Se



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**Wednesday, January 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-13797 Liboria Zavalza**

**Chapter 11**

**#5.00 Hearing RE [79] Disclosure Statement with Exhibits A-G**

Docket 79

**Tentative Ruling:**

1/7/2020

For the reasons set forth below, the Disclosure Statement is **CONDITIONALLY APPROVED**. The Court will require that the Debtor file an amended disclosure statement, prior to dissemination of the voting package, no later than **January 16, 2020** to address the issues discussed below. Otherwise, the Court finds that the Disclosure Statement contains adequate information.

**Pleadings Filed and Reviewed**

1. Individual Debtor's Disclosure Statement in Support of Plan of Reorganization [Doc. No. 79] (the "Disclosure Statement")
2. Individual Debtor's Chapter 11 First Amended Plan of Reorganization [Doc. No. 80]
3. Debtor's Notice of Hearing on Adequacy of Debtor's Disclosure Statement Describing Debtor's Chapter 11 Plan of Reorganization Dated November 6, 2019 [Doc. No. 90]
4. Objection of the United States Trustee to Approval of Individual Debtor's Disclosure Statement in Support of Plan of Reorganization [Doc. No. 85] (the "Objection")
5. Exhibit H, Declaration of Josefina Zavalza and Exhibit I, Declaration of Flor M. Baca, in support of Debtor's Disclosure Statement [Doc. No. 98]
6. Order Approving Stipulation Re: Treatment of Creditor's Claim under Debtor's Chapter 11 Plan of Reorganization [Doc. No. 72]
7. Stipulation Re: Treatment of Creditor's Claim under Debtor's Chapter 11 Plan of Reorganization [Doc. No. 71]
8. Monthly Operating Report, November 2019 [Doc. No. 97]
9. Monthly Operating Report, October 2019 [Doc. No. 86]
10. Monthly Operating Report, September 2019 [Doc. No. 74]
11. Monthly Operating Report, August 2019 [Doc. No. 70]

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12. Monthly Operating Report, July 2019 [Doc. No. 61]
13. As of the preparation of this tentative ruling, no reply brief has been filed

### **I. Facts and Summary of Pleadings**

Liboria Zavalza (the "Debtor") filed this voluntary Chapter 11 case on April 3, 2019 (the "Petition Date"). The Debtor's principal asset consists of an ownership interest in rental property located at 4053 & 4501(A) Randolph Street, Huntington Park, CA 90255 (the "Property"). According to monthly operating reports ("MORs"), the Debtor currently collects approximately \$4,000 per month in rental income [**Note 1**]. Debtor's amended Schedule I states that she is unemployed [Doc. No. 37], however, the Disclosure Statement contemplates that she currently earns monthly wages of \$1,550. *See* Disclosure Statement, Ex. A1.

The Property is subject to a first-priority deed of trust in favor of HSBC Bank, N.A., as Trustee for the Registered Holders of Nomura Home Equity Loan, Inc., Asset-Backed Certificates, Series 2007-3 (the "Bank") in the amount of \$1,185,616.25. On August 20, 2019, the Court entered an order valuing the Property at \$465,000 for purposes of plan confirmation, which resulted in the bifurcation of the Bank's claim into a secured claim of \$465,000 and an unsecured claim of \$722,892.12 [Doc. No. 63] (the "Valuation Order").

The Debtor now seeks approval of her Disclosure Statement ("Disclosure Statement"). Below is a description of the material provisions of the Debtor's Chapter 11 Plan (the "Plan"):

#### *Administrative Claims*

The Debtor anticipates that administrative fees for professionals will be approximately \$10,000 on the Effective Date. *See* Disclosure Statement at 6. The Court notes that this figure is different from the \$15,000 in professional fees requested by Debtor's counsel on a recent fee application [Doc. Nos. 83, 89]. Consistently, as set forth in Debtor's cash collateral motion [Doc. No. 87], the Debtor requested permission to use rental proceeds from the Property to satisfy professional fees in the sum of \$15,000. For the reasons stated in the Court's tentative ruling, adopted as the final ruling, the cash collateral motion was granted [Doc. Nos. 94, 95].

#### *Priority Tax Claims*

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The Debtor asserts that there are no creditors in this class.

*Class 5(a) – Secured Claim of the Bank*

Pursuant to a court-approved stipulation [Doc. No. 72] between Debtor and the Bank (the "Stipulation"), the Bank holds a fully secured claim against the Property in the amount of \$465,000. The Debtor will pay the Bank's secured claim in full, with a fixed 5% interest rate, by making monthly installment payments of \$2,787.91 over 360 months, which commenced on November 1, 2019. The Bank's claim is impaired, and it is entitled to vote on the Plan.

*Class 6(b) – General Unsecured Claims*

This class consists of all allowed general unsecured claims, which the Debtor asserts total \$730,167.23. As provided in the Stipulation, this class of claims includes the unsecured portion of the Bank's claim in the sum of \$722,892.12. The Debtor proposes to pay this class 2% of its claims, without interest, over a 5-year period by making equal pro-rata monthly installment payments totaling \$247.09. This class is impaired and entitled to vote on the Plan.

*Means of Implementation*

Based on the figures provided in the Disclosure Statement, the Debtor's Plan will be funded from the following sources:

1. Approximately \$14,700 anticipated cash on hand on the Effective Date.
2. Additional estimated funds of \$988 that will accumulate from projected income between now and the Effective Date.
3. A one-time \$5,000 family contribution.
4. Future disposable income for 5 years. The Debtor anticipates having sufficient income to cover all proposed plan payments.

On November 14, 2019, the United States Trustee (the "UST") filed a timely objection, citing several deficiencies with the Disclosure Statement such that it failed to adequately inform interested parties of the Plan. Pursuant to the "adequate information" standard set in *In re Metrocraft Publishing Services Inc.*, 39 B.R. 567 (Bankr. N.D. Ga 1984), the UST objected to the Disclosure Statement as follows:

1. As noted above, the Debtor's amended Schedule I states that she is unemployed. However, the Debtor's Plan depends on projected earnings

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**Liboria Zavalza**

**Chapter 11**

totaling \$1,550, but Debtor has failed to specify where she currently works and how much she earns. Similarly, the Debtor's projected expenses must account for personal income tax expenditures, if any.

2. The UST disputes the Debtor's claim that her rental income increased on or about September 2019. The UST contends that Debtor's claim is refuted by past MORs. Furthermore, the Debtor has not attached any rental agreements supporting an increase in rental income.
3. The feasibility of Debtor's Plan also relies on a purported \$5,000 family contribution, but there is no evidence as to who will supply this cash to the Debtor.
4. Last, the Debtor avers that the Plan will be feasible because she will live in her sister's residence rent-free, but she has failed to include any evidence supporting her claim. Accordingly, the Debtor should submit evidence indicating that she will not be responsible for any rent or living expenses for the entire duration of the Plan.

Based on the foregoing, the UST requests that the Debtor amend her Disclosure Statement to address the aforementioned issues.

As of the preparation of this tentative ruling, no reply is on file, but the Debtor filed *Exhibit H* to the Disclosure Statement, which contains the declaration of Josefina Zavalza, the Debtor's sister, and *Exhibit I*, which contains the declaration of Flor M. Baca, the Debtor's daughter [Doc. No. 98]. To support the execution of Debtor's Plan, Josefina Zavalza attests that she will permit the Debtor to reside with her rent-free for the 60-month duration of the Plan. Exhibit H, ¶¶ 2-4. Likewise, Ms. Baca declares that she is capable of gifting her mother \$5,000, which will be used to fund the Plan. Exhibit I, ¶ 2. Ms. Baca understands that this monetary contribution will not be repaid. *Id.*, ¶ 3.

## **II. Findings of Fact and Conclusions of Law**

Section 1125 requires a disclosure statement to contain "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 . . . that would enable. . . a hypothetical investor of the relevant class to make an informed judgment about the plan." In determining whether a disclosure statement provides adequate information, "the court shall consider the complexity of the case, the benefit

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of additional information to creditors and other parties in interest, and the cost of providing additional information.” 11 U.S.C. § 1125(a). Courts interpreting § 1125(a) have explained that the “primary purpose of a disclosure statement is to give the creditors the information they need to decide whether to accept the plan.” *In re Monnier Bros.*, 755 F.2d 1336, 1342 (8th Cir. 1985). “According to the legislative history, the parameters of what constitutes adequate information are intended to be flexible.” *In re Diversified Investors Fund XVII*, 91 B.R. 559, 560 (Bankr. C.D. Cal. 1988). “Adequate information will be determined by the facts and circumstances of each case.” *Oneida Motor Freight, Inc. v. United Jersey Bank*, 848 F.2d 414, 417 (3d Cir. 1988), *accord. In re Ariz. Fast Foods, Inc.*, 299 B.R. 589 (Bankr. D. Ariz. 2003).

Relevant factors for evaluating the adequacy of a disclosure statement may include: (1) the events which led to the filing of a bankruptcy petition; (2) a description of the available assets and their value; (3) the anticipated future of the company; (4) the source of information stated in the disclosure statement; (5) a disclaimer; (6) the present condition of the debtor while in Chapter 11; (7) the scheduled claims; (8) the estimated return to creditors under a Chapter 7 liquidation; (9) the accounting method utilized to produce financial information and the name of the accountants responsible for such information; (10) the future management of the debtor; (11) the Chapter 11 plan or a summary thereof; (12) the estimated administrative expenses, including attorneys' and accountants' fees; (13) the collectability of accounts receivable; (14) financial information, data, valuations or projections relevant to the creditors' decision to accept or reject the Chapter 11 plan; (15) information relevant to the risks posed to creditors under the plan; (16) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers; (17) litigation likely to arise in a nonbankruptcy context; (18) tax attributes of the debtor; and (19) the relationship of the debtor with affiliates.

*In re Metrocraft Pub. Services, Inc.*, 39 B.R. 567, 568 (Bankr. Ga. 1984). However, “[d]isclosure of all factors is not necessary in every case.” *Id.*

Subject to the amendments discussed below, the Court determines that the Disclosure Statement contains adequate information, in light of the size and



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complexity of this case. Among other things, the Disclosure Statement describes (1) significant events that occurred during the Chapter 11 case, (2) the classification structure of the Plan, (3) a liquidation analysis, (4) a disclaimer, (5) risk factors, (6) a 5-year budget projection, (7) a record of the Debtor's historical income and expenses for the past 6 months, and (8) the means for execution of the Plan. Furthermore, since the Objection was filed on November 14, 2019, the Debtor has addressed some of the issues raised by the UST. Namely, the Debtor has provided declarations from family members supporting that she will receive a \$5,000 cash gift from her daughter and that Debtor's sister will permit Debtor to live rent-free in her home throughout the duration of the Plan.

Other issues raised in the Objection remain outstanding. First, Debtor's projected future income is estimated to be \$5,500, which consists of net wages of \$1,550 and rental income of \$4,000. *See* Disclosure Statement, Ex. A1. The Debtor's estimated budget projection for rental income is supported by MORs filed after October 22, 2019, which indicate an increase in proceeds totaling just under \$4,000 per month. *See* Doc. Nos. 74, 86, 97 [**Note 2**]. However, as noted by the UST, the Debtor has not attached any evidence substantiating additional rental agreements. The Court deems the rental agreements financial information of significant importance to Debtor's creditors as it will enable them to assess whether Debtor can effectuate the Plan through its entire duration. Second, the Disclosure Statement implies that Debtor is currently employed, and will be earning monthly wages of \$1,550. However, the Debtor represented that she was unemployed as recently as June 18, 2019 and has not formally updated the Court or interested parties of any changes in her employment status. *See* Doc. No. 37. If the Debtor is indeed employed, she must notify creditors of her current employment status. Last, the Debtor must update budget projections to specify any tax allocations on anticipated wages and supplemental income.

Accordingly, by no later than **January 16, 2020**, and prior to disseminating the voting package, the Debtor is directed to file an amended disclosure statement that corrects the issues discussed above. In addition to previously-disclosed information, the amended disclosure statement should minimally contain the following:

1. A declaration by Debtor attesting to her current employment status, as referenced in the Disclosure Statement. The declaration must include specific employment information, such as the name of Debtor's employer, employment start date, employment position, and the amount of monthly

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- wages.
2. Evidence adequately supporting all of Debtor's rental agreements, including express language that the \$4,000 figure is an estimate on projected rental income.
  3. Updated budget projections, providing specific allocations for Debtor's taxes.
  4. An amended feasibility analysis, with updated figures to reflect increased administrative expenses as indicated in Debtor's counsel's fee application [Doc. No. 83, 89].

Subject to the minor amendments discussed above, the Court finds that the Disclosure Statement contains adequate information. Among other things, the Disclosure Statement describes: (1) the Debtor's assets and their estimated values, (3) the classification structure of the Plan, (4) a Liquidation Analysis and monthly net income calculations, (5) risk factors, (6) estimated administrative expenses, (7) a five-year budget projection, and (8) the means for executing the Plan.

Additionally, although the following is a plan confirmation issue, the Court notes that the Debtor proposes to retain her interest in the Property, while paying general unsecured creditors 2% of their claims, without interest, and without providing a new value contribution. Accordingly, the Debtor should be aware that the absolute priority rule will not be satisfied unless Class 6(b) votes to accept the Plan.

### **III. Conclusion**

The Disclosure Statement is APPROVED, subject to the amendments discussed above. The following dates and deadlines will apply to solicitation and confirmation of the Debtor's Plan:

- 1) A hearing will be held on the confirmation of the Debtor's Chapter 11 Plan of Reorganization on **April 08, 2020, at 10:00 a.m.**
- 2) In accordance with FRBP 3017(a), the amended disclosure statement, the Plan, a notice of hearing on confirmation of the Plan and, if applicable, a ballot conforming to Official Form No. 14, shall be mailed to all creditors, equity security holders and to the Office of the United States Trustee, pursuant to Federal Rule of Bankruptcy Procedure 3017(d), on or before **January 23, 2020.**

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**Liboria Zavalza**

**Chapter 11**

- 3) **February 24, 2020** is fixed as the last day for creditors and equity security holders to return to Debtor's counsel ballots containing written acceptances or rejections of the Plan, which ballots must be actually received by Debtor's counsel by 5:00 p.m. on such date.
- 4) **March 13, 2020** is fixed as the last day on which the Debtor must file and serve a motion for an order confirming the Plan (the "Confirmation Motion") including declarations setting forth a tally of the ballots cast with respect to the Plan ("Ballots"), and attaching thereto the original Ballots, and setting forth evidence that the Debtor has complied with all the requirements for the confirmation of the Plan as set forth in Section 1129 of the Bankruptcy Code.
- 5) **March 20, 2020** (the "Objection Date"), is fixed as the last day for filing and serving written objections to confirmation of the Plan, as provided in Rule 3020(b)(1) of the Federal Rules of Bankruptcy Procedure.
- 6) **March 27, 2020** is fixed as the last day on which the Debtor may file and serve a reply to any opposition to the Confirmation Motion ("Reply").

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** See Doc. Nos. 74, 86, 97.

**Note 2:** For reference, the Court notes that Debtor received rental income totaling \$3,978 during the month of September 2019 [Doc. No. 74], \$3,888 for the month of October 2019 [Doc. No. 86], and \$3,900 for the month of November 2019.

**Party Information**

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**CONT... Liboria Zavalza**

**Chapter 11**

**Debtor(s):**

Liboria Zavalza

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

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**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#6.00** Status Hearing

RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Capitol Distribution Company, LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Inc., a California corporation, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

FR, 11-12-19

fr. 12-11-19

Docket 9

**Tentative Ruling:**

1/7/2020

See Cal. No. 7, below, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Pro Se

Bonert Management Company, Inc.

Represented By

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**Chapter 11**

	Lawrence M Jacobson
Bonert's Jadasaha, LLC	Represented By Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon, LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson
DOES 1 through 10, inclusive	Pro Se
Beefam, LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Capitol Distribution Company, LLC	Represented By Sean Lowe Scott E Blakeley
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**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#7.00** Hearing  
RE: [17] Motion for Remand with proof of service (Blakeley, Scott)  
  
FR. 11-19-19  
  
fr. 12-11-19

Docket 17

**Tentative Ruling:**

1/7/2020

For the reasons set forth below, the Motions to Remand are DENIED.

**Pleadings Filed and Reviewed:**

- 1) Papers filed in Adv. No. 2:19-ap-01405-ER:
  - a) First Amended Complaint for Damages (the "Complaint") [Doc. No. 9]
  - b) The Plaintiff's Notice of Motion and Motion to Remand the Case to State Court (the "Motion") [Doc. No. 17]
  - c) Defendants Michael Bonert and Vivien Bonert's Opposition to Plaintiff Capitol Distribution Company's Motion for Remand (the "Opposition") [Doc. No. 23]
    - i) Request for Judicial Notice in Support of [Opposition] [Doc. No. 24]
  - d) Response of Defendant Bonert Management Company, Inc., Bonert's Jadasah, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, Beefam, LLC and 3144 Bonert's LLC to Plaintiff's Motion to Remand: (1) Joinder in Debtors' Opposition to Motion to Remand [and] (2) Additional Points and Authorities in Opposition to Motion to Remand [Doc. No. 26]
  - e) The Plaintiff's Reply Brief to the Defendant's Opposition to Its Motion to Remand the Case to State Court (the "Reply") [Doc. No. 27]

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- 2) Papers filed in Adv. No. 2:19-ap-01406-ER:
  - a) First Amended Complaint for Damages [Doc. No. 9]
  - b) The Plaintiff's Notice of Motion and Motion to Remand the Case to State Court [Doc. No. 17]
  - c) Defendants Michael Bonert and Vivien Bonert's Opposition to Plaintiff Stratas Foods, LLC's Motion for Remand [Doc. No. 26]
    - i) Request for Judicial Notice in Support of Defendants Michael Bonert and Vivien Bonert's Opposition to Plaintiff Stratas Foods, LLC's Motion for Remand [Doc. No. 27]
  - d) Response of Defendants Bonert Management Company, Inc., Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, Beefam, LLC and 3144 Bonert's LLC to Plaintiff's Motion to Remand: (1) Joinder in Debtors' Opposition to Motion to Remand [and] (2) Additional Points and Authorities in Opposition to Motion to Remand [Doc. No. 28]
  - e) The Plaintiff's Reply Brief to the Defendants' Oppositions to Its Motion to Remand the Case to State Court [Doc. No. 30]

## **I. Facts and Summary of Pleadings**

### **A. Background**

Michael Bonert ("Michael") and Vivien Bonert ("Vivien," and together with Michael, the "Debtors") filed a voluntary Chapter 11 petition on September 12, 2019 (the "Petition Date"). Prior to the Petition Date, the Debtors operated a pie manufacturing company known as Bonert's Incorporated ("Bonerts"). In 2016, Bonerts ceased conducting business after its lender caused its assets to be sold through a federal receivership. Proceeds of the receivership sale were used to pay secured creditors, but were not sufficient to pay unsecured trade creditors, some of whom obtained unopposed judgments against Bonerts.

On August 13 and 14, 2019, Capitol Distribution Company, LLC ("Capitol"), Stratas Foods LLC ("Stratas"), Packaging Corporation of America, and Seneca Foods Corporation (collectively, the "Creditors") filed four collection actions (the "Collection Actions") against the Debtors, Bonerts, and LLCs wholly owned by the Debtors that were affiliates of Bonerts (the "Affiliates"). The Collection Actions allege, *inter alia*, that the Debtors operated the Affiliates and Bonerts as a single enterprise for the purpose of defeating the rights of creditors; that the Debtors misappropriated assets of Bonerts and the Affiliates; and that the Debtors are liable



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for trade debt incurred by Bonerts as its alter ego. Two of the Collection Actions were filed in the United States District Court for the Central District of California (the "District Court") and two of the Collection Actions were filed in the Los Angeles Superior Court (the "State Court").

Debtors sought bankruptcy protection for the purpose of having all alter-ego claims arising in connection with the Debtors' operation of Bonerts and the Affiliates adjudicated before the Bankruptcy Court. Pursuant to this objective, on September 13 and 16, 2019, the Debtors removed all four of the Collection Actions to the Bankruptcy Court.

On October 17, 2019, the Court approved stipulations remanding two of the Collection Actions to the District Court. Both stipulations were without prejudice to any party's right (1) to move for referral of the action back to the Bankruptcy Court or (2) to move for an injunction against the prosecution of the action. The Collection Actions that originated in the State Court remain pending before this Court. Capitol and Stratas move to remand those Collection Actions to the State Court. The Debtors and the Affiliates oppose remand. The papers filed in connection with the two Motions to Remand are substantially identical.

Both Stratas and Capitol timely filed proofs of claim in the Debtors' bankruptcy case. [Note 1] Stratas asserts an unsecured claim in the amount of \$57,830.40 based upon "goods sold." Proof of Claim 24-1 at ¶¶ 7–8. Capitol asserts an unsecured claim in the amount of \$818,516.98, also based upon "goods sold." Proof of Claim 28-1 at ¶¶ 8–9.

**B. Summary of Papers Filed in Connection with the Motions to Remand**

*i. Timeliness of the Motions to Remand*

Defendants (the Debtors and the Affiliates) argue that the Motions to Remand must be denied because they were not filed within 30 days of the removal of the actions, as required by the Local Bankruptcy Rules. Plaintiffs (Capitol and Stratas) argue that the Motions were timely when considering that under Bankruptcy Rule 9006(a), three days are added to the prescribed period when service is by mail.

*ii. Application of the Equitable Factors*

The parties' positions with respect to the fourteen equitable factors informing the remand decision are as follows:

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**1. The Existence of a Right to a Jury Trial**

Defendants' Position

There is no right to a jury trial on Plaintiffs' alter ego claims. "It is well-settled that the alter ego doctrine is 'essentially an equitable one and for that reason is particularly within the province of the trial court.' Thus, the 'constitutional guaranty of the right to a jury trial does not apply to actions involving the application of equitable doctrines and the granting of relief that is obtainable only in courts of equity.'" *Dow Jones Co. v. Avenel*, 151 Cal. App. 3d 144, 147-48, 198 Cal. Rptr. 457 (Cal. Ct. App. 1984) (internal citation omitted).

Even if Plaintiffs are entitled to a jury trial, the case can be tried by the District Court.

Plaintiffs' Position

Defendants argue that Plaintiffs have no right to a jury trial on their alter ego allegations, but ignore the fact that Plaintiffs are entitled to a jury trial on their breach of contract and UCC claims. *Illinois Union Ins. Co. v. Intuitive Surgical, Inc.*, 179 F. Supp. 3d 958, 960 (N.D. Cal. 2016).

Plaintiffs do not consent to a jury trial before the Bankruptcy Court. This factor heavily favors remand. *See Fed. Home Loan Bank of Chicago v. Banc of Am. Sec. LLC*, 448 B.R. 517, 526 (C.D. Cal. 2011) ("Plaintiff's right to a jury trial is in itself a reason to grant equitable remand.").

**2. The Jurisdictional Basis, if Any, Other than § 1334**

Defendants' Position

If the Debtors are not found to be the alter ego of Bonerts, then Plaintiffs' breach of contract claims against the Debtors will be disallowed. These actions are core proceedings because their outcome will determine whether Plaintiffs can assert a claim against the estate.

Plaintiffs' Position

These actions are not core proceedings. There is no merit to Plaintiffs' argument that these actions should be considered core proceedings because they involve the allowance or disallowance of claims. Plaintiffs have yet to file proofs of claim against the estate. [Note 2] Further, these adversary proceedings are separate matters from any

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proofs of claim that Plaintiffs might file.

**3. The Effect or Lack Thereof on the Efficient Administration of the Estate if the Court Remands the Action**

*Defendants' Position*

Remanding these actions would increase the estate's legal fees by requiring the Debtors to defend against Plaintiffs' alter ego claims before multiple courts. If remand were to occur, Debtors would likely have two alter ego federal trials, two alter ego state court trials, and evidentiary hearings for at least six alter ego proofs of claims. These additional duplicative trials would consume the Debtors' time and require additional estate assets to be devoted to legal fees.

*Plaintiffs' Position*

Remanding these actions will have little to no effect on the efficient administration of the estate. The only potential effect will be a change in the value of the Debtors' membership interests in the Affiliates, which could increase or decrease the recovery available to claimants.

Returning these actions to the State Court will reduce duplication given Plaintiffs' right to a jury trial. Plaintiffs do not consent to a jury trial before the Bankruptcy Court, so any jury trial will have to occur before a different court. In addition, unless the automatic stay is lifted, the Debtors will not have to litigate the actions until the bankruptcy proceeding concludes, so the Debtors are not prejudiced by remand. Further, there is no reason to think that the two actions would not be consolidated before the State Court.

**4. The Degree of Relatedness or Remoteness of the Proceeding to the Main Bankruptcy Case**

*Defendants' Position*

The Debtors sought bankruptcy protection precisely because of the Collection Actions and similar claims brought by other creditors. The determination of whether the Debtors are alter egos of Bonerts or of any of the Affiliates is crucial to whether the Bonerts will have anything to pay creditors. The number of alter ego trials is also crucial to the amount of administrative claims that will be asserted against the estate.

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Plaintiffs' Position

The fact that the Collection Actions have the *potential* to affect the amount available for creditors does not weigh in favor of remand. *See Hopkins v. Plant Insulation Co.*, 342 B.R. 703, 711 (D. Del. 2006) ("[T]he Court agrees with Flintkote that the primary impact of the California Action on Flintkote's bankruptcy proceeding is the potential to increase the recovery available for present and future asbestos claimants.... However, the Court is not persuaded that this potential impact will impede the administration of the estate, or is an otherwise sufficient impact to justify retention of federal jurisdiction over the California Action.").

**5. The Substance Rather than the Form of an Asserted Core Proceeding**

Defendants' Position

These actions are core proceedings because their outcome will determine whether Plaintiffs can assert a claim against the estate.

Plaintiffs' Position

These actions do not qualify as core proceedings. Defendants' assertion that these actions involve allowance or disallowance of claims conflates these adversary proceedings with the separate process for filing proofs of claim. Therefore, this factor favors remand.

**6. The Extent to Which State Law Issues Predominate Over Bankruptcy Issues**

Defendants' Position

Although state law claims predominate, these same state law claims will also predominate in any proofs of claim that Plaintiffs assert against the estate. Because the Bankruptcy Court will have to conduct evidentiary hearings to determine the proofs of claim, it should also adjudicate these actions.

Plaintiffs' Position

The Debtors have conceded that state law claims predominate. The fact that the same issues may be addressed in proofs of claim does not weigh against remand, given that the actions involve claims against the non-debtor affiliates.

**7. The Burden on the Bankruptcy Court's Docket**

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*Defendants' Position*

Remanding these actions will not lessen the burden on the Bankruptcy Court's docket. The Court will have to address the alter ego issues raised in these actions once Plaintiffs file proofs of claim.

*Plaintiffs' Position*

The Debtors continue to conflate proceedings related to bankruptcy claims with these adversary proceedings. Adjudication of these proceedings with multiple non-debtor defendants will increase the burden on the Court.

**8. The Difficult or Unsettled Nature of Applicable Law**

*Defendants' Position*

The alter ego claims at issue in these actions are not complex, and bankruptcy courts are familiar with such law as it is considered in the claims process or when a party seeks substantive consolidation.

*Plaintiffs' Position*

California courts have developed differing, expansive tests to establish single-enterprise or alter ego liability. *See, e.g., Dixon v. Magna-RX, Inc.*, 2016 WL 1397584, at \*6 (C.D. Cal. Mar. 31, 2016) (setting forth a sixteen-factor test used to determine whether to pierce the corporate veil). These complex, state law tests illustrate how this factor weighs in favor of remand, where experienced California courts may address these issues of state law.

**9. The Likelihood that Commencement of the Proceeding in Bankruptcy Court Involves Forum Shopping By One of the Parties**

*Defendants' Position*

The Debtors' removal of these actions to the Bankruptcy Court was not forum shopping. The Debtors could not afford to litigate the Collection Actions filed by the Plaintiffs and the other Creditors before four different courts.

*Plaintiffs' Position*

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The Debtors' decision to remove these actions plainly represents a strategy to dilute Plaintiffs' recovery by trying to amass all potential creditors in one forum in an effort to discourage any single creditor from proceeding with its case. The Debtors' forum shopping supports remand.

**10. The Possibility of Prejudice to Other Parties in the Action**

*Defendants' Position*

The Bankruptcy Court's retention of these proceedings would not prejudice Plaintiffs, because all parties would benefit from having fewer trials.

*Plaintiffs' Position*

If these actions are not remanded, Plaintiffs will either be required to forego their constitutional right to a jury trial, or endure the burden of a bifurcated trial with only some issues being tried before the Bankruptcy Court. In either situation, Plaintiffs would suffer severe prejudice. Remanding these actions to the State Court will benefit the Debtors, who will receive the benefit of the automatic stay.

**11. The Presence in the Proceeding of Nondebtor Parties**

*Defendants' Position*

All of the Affiliates have consented to the Bankruptcy Court's jurisdiction and oppose remand of these actions. Therefore, this factor weighs against remand.

*Plaintiffs' Position*

Each of these actions involves multiple non-debtor Affiliates. The presence of these non-debtors weighs in favor of remand.

**12. Comity**

*Defendants' Position*

The Debtors recently answered the Complaints and no motions or orders have been issued by the State Court, so there are no issues of comity.

*Plaintiffs' Position*

The fact that no motions or orders have been issued by the State Court does not

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weigh against remand. Comity is recognition of another court, not simply a past decision of another court. *See Port Auth. of New York & New Jersey v. CCI-Bowers Co.*, 1992 WL 164441, at \*5 (D. N.J. June 15, 1992) ("Congress has made it plain that, in respect to non-core proceedings such as this (i.e., cases which assert purely state law causes of action), the federal court should not rush to usurp the traditional precincts of the state court.' Accordingly, deference to the state court mandates that this action be remanded."). Comity weighs in favor of remand.

**13. The Feasibility of Severing State Law Claims from Core Bankruptcy Matters to Allow Judgments to Be Entered in State Court with Enforcement Left to the Bankruptcy Court**

*Defendants' Position*

The Bankruptcy Court could easily sever the alter ego claims and remand the remaining claims to the State Court. Unless and until Plaintiffs prevail upon their alter ego claims, this factor weighs against remand.

*Plaintiffs' Position*

Severing Plaintiffs' breach of contract and UCC claims from its fraudulent transfer claims is not feasible. Both the state law claims and fraudulent transfer claims will require Plaintiffs to introduce evidence of the unauthorized diversion of corporate funds to other than corporate purposes, as well as evidence that such diversion was meant to hinder, delay, and defraud creditors. That is, the evidence required to prove the state law claims substantially overlaps with the evidence required to prove the fraudulent transfer claims. If Plaintiffs' state law claims are severed, Plaintiffs will effectively have to put on the same case twice.

**14. The Presence of a Related Proceeding Commenced in the State Court or the Bankruptcy Court**

*Defendants' Position*

If all of the Collection Actions had been filed in one court and consolidated for trial, then remand would likely make sense. However, that is not the case here. The Bankruptcy Court will have to adjudicate the alter ego issues in connection with Plaintiffs' proofs of claim. It makes more sense to have all of the matters heard in the

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Bankruptcy Court. This factor favors denial of remand.

*Plaintiffs' Position*

Plaintiffs assert a right to a jury trial and have supported consolidation of the actions in State Court. Remanding these actions will allow the matters to proceed to a single jury trial before the State Court, as opposed to some bifurcated proceeding that begins in Bankruptcy Court and concludes with a jury trial in State Court.

## **II. Findings and Conclusions**

### **A. The Motions to Remand Were Filed Timely**

Local Bankruptcy Rule ("LBR") 9027-1(c) requires that a motion for remand be filed "not later than 30 days after the date of filing of the notice of removal ...." Bankruptcy Rule 9006(f) provides that "[w]hen there is a right or requirement to act or to undertake some proceedings within a prescribed period after being served and that service is by mail ..., three days are added after the prescribed period would otherwise expire under Rule 9006(a)."

Notices of Removal of both of these actions were filed on September 16, 2019, and were served upon Plaintiffs by mail. Therefore, the deadline for Plaintiffs to file the Motions to Remand was 33 days after September 16, 2019 (30 days plus 3 days' for service by mail). Because the date that was 33 days subsequent to September 16, 2019 was Saturday, October 19, 2019, Plaintiffs' deadline was extended until Monday, October 21, 2019, pursuant to Bankruptcy Rule 9006(a)(1). **[Note 3]** Both Motions to Remand were filed on October 21, 2019, and were therefore timely.

### **B. The Motions to Remand Are Denied**

Title 28 U.S.C § 1452 provides that the Court may remand an action "on any equitable ground." Courts consider the following factors in determining whether equitable grounds support remand:

- 1) the effect or lack thereof on the efficient administration of the estate if the Court recommends [remand or] abstention;
- 2) the extent to which state law issues predominate over bankruptcy issues;
- 3) the difficult or unsettled nature of applicable law;
- 4) the presence of related proceeding commenced in state court or other



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nonbankruptcy proceeding;

- 5) the jurisdictional basis, if any, other than § 1334;
- 6) the degree of relatedness or remoteness of proceeding to main bankruptcy case;
- 7) the substance rather than the form of an asserted core proceeding;
- 8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court;
- 9) the burden on the bankruptcy court's docket;
- 10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties;
- 11) the existence of a right to a jury trial;
- 12) the presence in the proceeding of nondebtor parties;
- 13) comity; and
- 14) the possibility of prejudice to other parties in the action.

*Citigroup, Inc. v. Pacific Investment Management Co., LLC (In re Enron Corp.)*, 296 B.R. 505, 509 n. 2 (C.D. Cal. 2003).

The "any equitable ground" remand standard is an unusually broad grant of authority.... At bottom, the question is committed to the sound discretion of the bankruptcy judge." *McCarthy v. Prince (In re McCarthy)*, 230 B.R. 414, 417 (B.A.P. 9th Cir. 1999).

Having considered the *Enron* factors, the Court declines to remand these actions. The factors which are the most significant within the context of these cases are discussed first.

*Factor 11—The Existence of a Right to a Jury Trial*

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Plaintiffs are correct that if these actions were remanded to the State Court, Plaintiffs would be entitled to a jury trial, at least with respect to their breach of contract claims. *See Infor Glob. Sols. (Michigan), Inc. v. St. Paul Fire & Marine Ins. Co.*, 2009 WL 5909257, at \*1 (N.D. Cal. Apr. 2, 2009) ("A party has a Seventh Amendment right to jury trial in a breach of contract action to determine whether the contract has been breached and the extent of the damages."). However, that does not mean that Plaintiffs are entitled to a jury trial before the Bankruptcy Court.

Both Plaintiffs have filed proofs of claim against the estate. In so doing, Plaintiffs have subjected themselves to the Bankruptcy Court's equitable power and have waived any Seventh Amendment right to a jury trial. *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 57–58, 109 S. Ct. 2782, 2799, 106 L. Ed. 2d 26 (1989). Plaintiffs cannot escape this result by contending that these actions are somehow separate and distinct from the proofs of claim that Plaintiffs have filed. Similar reasoning was rejected by the Supreme Court in *Langenkamp v. Culp*, 498 U.S. 42, 44–45, 111 S. Ct. 330, 331, 112 L. Ed. 2d 343 (1990). In *Langenkamp*, the Court held that creditors who had filed a proof of claim were not entitled to a jury trial in a subsequent preference action. The Court held: "[T]he creditor's claim and the ensuing preference action by the trustee become integral to the restructuring of the debtor-creditor relationship through the bankruptcy court's *equity jurisdiction*.... As such, there is no Seventh Amendment right to a jury trial." *Id.*

Here, Plaintiffs' proofs of claim are predicated upon the alter ego causes of action asserted in these adversary proceedings. Plaintiffs' proofs of claim are based upon "goods sold." However, according to the allegations in the Collection Actions, Plaintiffs did not sell goods directly to the Debtors. Plaintiffs instead allege that they sold goods to Bonerts. Therefore, Plaintiffs cannot prevail upon their claims against the bankruptcy estate unless they prevail upon the alter ego causes of action asserted in these proceedings.

Because Plaintiffs' proofs of claim depend upon the legal theories asserted in these actions, these actions—like the preference action in *Langenkamp*—have become integral to the claims allowance and disallowance process. As such, the adversary proceedings now will proceed under the Bankruptcy Court's equitable power, meaning that Plaintiffs have forfeited their Seventh Amendment right to a jury trial.

Since Plaintiffs are not entitled to a jury trial, this factor weighs against remand.

*Factor 7—The Substance Rather than the Form of an Asserted Core Proceeding*

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As discussed above, these actions are integral to the claims allowance and disallowance process. Therefore, the actions are core proceedings. This factor weighs against remand.

*Factor 5—The Jurisdictional Basis, if Any, Other than § 1334*

For the reasons discussed in the Court's application of Factors 7 and 11, these actions are core proceedings that are integral to the claims allowance and disallowance process. This factor weighs against remand.

*Factor 10—The Effect or Lack Thereof on the Efficient Administration of the Estate if the Court Remands the Action*

Remanding these actions would impair the efficient administration of the estate. Whether the Debtors are liable to Plaintiffs as the alter ego of Bonerts will have to be determined in connection with the claims allowance and disallowance process. It makes no sense to subject the Debtors to duplicative litigation before the State Court when the issues raised in these adversary proceedings will have to be determined by the Bankruptcy Court in any event. Subjecting the Debtors to duplicative litigation will increase the administrative claims against the estate to the detriment of unsecured creditors.

*Factor 9—The Burden on the Bankruptcy Court's Docket*

Remanding these actions would not lessen the burden on the Court's docket because, as set forth in the discussion of Factor 9, the Court would still be required to adjudicate the matters at issue in these proceedings in connection with Plaintiffs' proofs of claim. This factor weighs against remand.

*Factor 4—The Degree of Relatedness or Remoteness of the Proceeding to the Main Bankruptcy Case*

These proceedings are closely related to the Debtors' main bankruptcy case. First, to the extent the actions assert substantial claims against the Debtors, they obviously will have an effect upon the Debtors' ability to distribute funds to other unsecured creditors. Second, to the extent the actions assert claims against the Affiliates, those

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Affiliates are wholly owned by the Debtors (either individually or through the Debtors' revocable trusts). Therefore, even with respect to the claims against the Affiliates, these actions will affect the Debtors' ability to make distributions to other unsecured creditors.

*Factor 12—The Presence in the Proceeding of Non-Debtor Parties*

The non-debtor parties in these actions—the Affiliates, which are wholly-owned by the Debtors—have all consented to the Bankruptcy Court's jurisdiction. In addition, the Affiliates oppose the remand of these actions. This factor weighs against remand.

*Factor 8—The Feasibility of Severing State Law Claims from Core Bankruptcy Matters to Allow Judgments to Be Entered in State Court with Enforcement Left to the Bankruptcy Court*

The Court agrees with the Plaintiffs that the evidence to be presented on the various claims for relief overlaps to a significant extent. Therefore, attempting to sever Plaintiffs' state law claims would not be feasible. As a result, this factor weighs against remand.

*Factor 10—The Likelihood that Commencement of the Proceeding in Bankruptcy Court Involves Forum Shopping*

It is true that the Debtors elected to seek bankruptcy protection for the express purpose of consolidating all of the alter ego actions brought against them before a single court. However, the Debtors' objective in seeking an alternative forum was not to influence the outcome of the litigation, but rather to consolidate all litigation before one court to reduce costs. That is, the Debtors removed these actions in pursuit of a valid bankruptcy purpose (maximizing the property available to satisfy creditors by litigating the claims of creditors in the most efficient manner), not "merely to obtain a tactical litigation advantage." *NMSBPCSLDBHB, L.P. v. Integrated Telecom Express, Inc. (In re Integrated Telecom Express, Inc.)*, 384 F.3d 108, 120 (3d Cir. 2004). Because these actions were removed for a legitimate bankruptcy purpose, the Court does not view the removal as improper forum shopping. Accordingly, this factor weighs against remand.

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*Factor 14—The Possibility of Prejudice to Other Parties in the Action*

Plaintiffs argue that they will be prejudiced if the actions are not remanded because they will be deprived of their right to a jury trial. This argument lacks merit. As discussed above, Plaintiffs have waived their right to a jury trial by filing proofs of claim. This factor weighs against remand.

*Factor 3—The Difficult or Unsettled Nature of Applicable Law*

In determining whether to pierce the corporate veil, California courts apply multi-factor tests. The fact that alter ego law involves the evaluation and application of multiple factors does not mean that the law in this area is unduly difficult or unsettled. Further, regardless of whether these actions were remanded, the Court would be required to adjudicate the alter ego issues in connection with Plaintiffs' proofs of claim. This factor weighs against remand.

*Factor 4—The Presence of a Related Proceeding Commenced in the State Court or the Bankruptcy Court*

There are no other proceedings related to these actions that are pending before the State Court. Remand will not enable the consolidation of these actions with other matters currently being tried in the State Court. This factor weighs against remand.

*Factors 13 (Comity) and 2 (The Extent to Which State Law Issues Predominate Over Bankruptcy Issues)*

These factors weigh in favor of remand. The claims asserted in these proceedings arise primarily under state law. However, given that all the remaining factors weigh strongly against remand, the Court accords these factors only minimal weight.

**C. The Court Will Enter Final Judgment In These Actions**

In the Motions to Remand and in the Joint Status Reports, Plaintiffs have contested the Court's authority to enter final judgment in these actions. As noted above, these actions are core proceedings integrally related to the claims allowance and disallowance process. Consequently, the Court has statutory and constitutional

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authority to enter final judgment. Plaintiffs' objection to the Court's authority to enter final judgment is **OVERRULED**.

**D. Litigation Deadlines**

Having reviewed the Joint Status Reports filed by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) To accommodate Plaintiffs' counsel's scheduling conflict with respect to the August 2020 trial date, the litigation dates previously ordered are extended, as follows:
  - a) The last day to amend pleadings and/or join other parties is **3/12/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **6/30/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **7/30/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **8/18/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **8/25/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **8/29/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **09/15/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU)

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**Chapter 11**

system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.

- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
- i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
  - iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **09/28/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit

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binders and trial briefs.

- 2) These matters shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiffs will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

### **III. Conclusion**

Based upon the foregoing, the Motions to Remand are **DENIED**. The Court will prepare and enter (1) a Scheduling Order and (2) orders denying the Motions to Remand. Plaintiffs shall submit the order assigning these actions to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

#### **Note 1**

The claims bar date was December 20, 2019. The hearings on the Motions to Remand were initially set for December 11, 2019. Based upon a finding that the Motions could not be adjudicated until it was known whether Capitol and Stratas would file proofs of claim, the Court continued the hearings to January 8, 2020.

#### **Note 2**

After the briefing on the Motions to Remand had been completed, both Plaintiffs filed proofs of claim.

#### **Note 3**

Bankruptcy Rule 9006(a)(1) provides that where "the last day of the period [to take action] ... is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday."



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CONT... Michael Bonert

Chapter 11

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

Beefam, LLC

Represented By  
Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Capitol Distribution Company, LLC

Represented By

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**Michael Bonert**

Sean Lowe  
Scott E Blakeley

**Chapter 11**

**United States Bankruptcy Court  
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**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406 Stratas Foods LLC v. Bonert et al

**#8.00 Status Hearing**

RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Stratas Foods LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Incorporated dba Bonert's Slice of Pie, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

FR. 11-12-19

fr. 12-11-19

Docket 9

**Tentative Ruling:**

1/7/2020

See Cal. No. 7, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
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**CONT... Michael Bonert**

**Chapter 11**

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
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**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

**#9.00**      Hearing  
              RE: [17] Motion for Remand with proof of service (Blakeley, Scott)  
  
              fr. 12-11-19

Docket      17

**Tentative Ruling:**

1/7/2020

See Cal. No. 7, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
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**CONT...**     **Michael Bonert**  
Bonert's Mibon, LLC

**Chapter 11**

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#10.00 Status Hearing**

RE: [28] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19

fr. 12-19-19

Docket 28

**\*\*\* VACATED \*\*\* REASON: TELEPHONIC STATUS CONFERENCE 2-19-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/7/2020

Order entered. Hearing on Motion to Dismiss **ADJOURNED** pursuant to stipulation. Continued Status Conference set for **February 19, 2020, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

**United States Bankruptcy Court  
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Los Angeles  
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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Represented By  
Abigail V O'Brient

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
Alexandra Achamallah



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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#11.00 Hearing re [40] Motion To Dismiss Amended Complaint**

**FR. 11-21-19**

fr. 12-19-19

Docket 0

**\*\*\* VACATED \*\*\* REASON: TELEPHONIC STATUS CONFERENCE 2-19-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/7/2020

See Cal. No. 10, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Represented By

Abigail V O'Brient

**United States Bankruptcy Court  
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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Plaintiff(s):**

Official Committee of Unsecured

Represented By

Mark Shinderman

Alexandra Achamallah

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#12.00** Status Hearing

RE: [30] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property)), (91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19

fr. 12-19-19

Docket 30

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-19-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/7/2020

Order entered. Hearing on Motion to Dismiss **ADJOURNED** pursuant to stipulation. Continued Status Conference set for **February 19, 2020, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**Defendant(s):**

U.S. Bank National Association

Represented By  
Jason D Strabo  
Clark Whitmore  
Jason M Reed  
Megan Preusker  
Nathan F Coco  
Mark Shinderman

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
James Cornell Behrens  
Alexandra Achamallah

**United States Bankruptcy Court  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#13.00** Hearing  
RE: [39] Motion to Dismiss Adversary Proceeding of U.S. Bank National  
Association as Notes Trustee

FR. 11-21-19

fr. 12-19-19

Docket 39

**\*\*\* VACATED \*\*\* REASON: TELEPHONIC STATUS CONFERENCE 2-19-20 at 10:00 A.M.**

**Tentative Ruling:**

1/7/2020

Order entered. Hearing on Motion to Dismiss **ADJOURNED** pursuant to stipulation.  
Continued Status Conference set for **February 19, 2020, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

U.S. Bank National Association

Represented By

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Jason D Strabo  
Clark Whitmore  
Jason M Reed  
Megan Preusker  
Nathan F Coco  
Mark Shinderman

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
James Cornell Behrens  
Alexandra Achamallah

**United States Bankruptcy Court  
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Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#13.10** Hearing re [3906] *Debtors' Emergency Motion for Authorization to Close St. Vincent Medical Center*

Docket 0

**Tentative Ruling:**

1/8/2020

Subject to additional argument that may be presented at the hearing, the Court is prepared to GRANT the Emergency Motion.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Emergency Motion for Authorization to Close St. Vincent Medical Center (the "Motion") [Doc. No. 3906]
  - a) Order Setting Hearing on Debtors' Emergency Motion for Authorization to Close St. Vincent Medical Center [Doc. No. 3907]
  - b) Notice of Hearing on Debtors' Emergency Motion for Authorization to Close St. Vincent Medical Center [Doc. No. 3909]
  - c) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 3906, 3907 and 3909 [Doc. No. 3913]
- 2) Opposition by California Nurses Association to Debtors' Emergency Motion for Authorization to Close St. Vincent Medical Center [Doc. No. 3914]

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. On August 31, 2018, the Court entered an order granting the Debtors' motion for joint administration of the Debtors' Chapter 11 cases. Doc. No. 17.

As of the Petition Date, the Debtors operated six acute care hospitals in the state of California. On December 27, 2018, the Court authorized the Debtors to sell two of their hospitals—O'Connor Hospital and Saint Louise Regional Hospital—to Santa Clara County (the "Santa Clara Sale"). The Santa Clara Sale closed on February 28, 2019.

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On February 19, 2019, the Court entered an order establishing bidding procedures (the "Bidding Procedures Order") [Doc. No. 1572] for the auction of the Debtors' four remaining hospitals—St. Francis Medical Center ("St. Francis"), St. Vincent Medical Center (including St. Vincent Dialysis Center) ("St. Vincent"), Seton Medical Center ("Seton"), and Seton Medical Center Coastside ("Seton Coastside") (collectively, the "Hospitals"). Under the Bidding Procedures Order, Strategic Global Management ("SGM") was designated as the stalking horse bidder. SGM's bid for all four of the Hospitals was \$610 million. The Bidding Procedures Order approved an Asset Purchase Agreement (the "APA") between the Debtors and SGM.

The Hospitals were extensively marketed by the Debtors' investment banker, Cain Brothers, a division of KeyBank Capital Markets, Inc. ("Cain Brothers"). Cain Brothers notified ninety parties of the auction process. Sixteen of these parties requested continued access to a data room containing information about the Hospitals.

Notwithstanding Cain Brothers' thorough marketing efforts, the Debtors did not receive any qualified bids for all of the Hospitals. The Debtors received one bid to purchase only St. Vincent and one bid to purchase only St. Francis. After consulting with the Official Committee of Unsecured Creditors (the "Committee") and the largest secured creditors, the Debtors determined not to conduct an auction. On May 2, 2019, the Court entered an order finding that SGM was the winning bidder and approving the sale to SGM (the "SGM Sale").

On November 27, 2019, the Court entered a memorandum of decision and accompanying order finding that as of November 19, 2019, all conditions precedent under the APA to SGM's obligation to close the SGM Sale had been satisfied. Doc. Nos. 3723–24. The Court found that pursuant to § 1.3 of the APA, SGM was obligated to close the SGM Sale by no later than December 5, 2019. *Id.* SGM did not close the sale by December 5, 2019. On December 27, 2019, the Debtors sent SGM a notice terminating the APA and asserting that SGM had materially breached the APA. Doc. No. 3899.

The Debtors seek authorization to implement a plan to close St. Vincent (the "Closure Plan"). The Debtors assert that there is no buyer interested in purchasing St. Vincent as a going-concern; that the operating losses generated by St. Vincent threaten the viability of the entire Verity Health System; and that if the Debtors do not immediately begin implementing the Closure Plan, they will lack sufficient funds to conduct an orderly closure.

The timeline contemplated by the Closure Plan is as follows (all dates are calculated with reference to entry of an order granting the Motion):



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Los Angeles  
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**Chapter 11**

- Order + 1 day: Notify Emergency Medical Services and place St. Vincent on diversion protocol for all patients. Begin process of transferring patients, along with their medical information, to a hospital of their choice.
- Order + 3 days: Complete closure of emergency department.
- Order + 5 days: Cease scheduling all elective procedures.
- Order + 7 days: Conclude and cease all elective surgeries and other procedures.
- Order + 21 days: Complete closure of the dialysis department.
- Order + 30 days: Complete closure of the transplant department.
- Order + 30 days: Complete closure and cease clinical operations.

**Summary of the California Nurses Association’s Opposition to the Motion**

The California Nurses Association (the “CNA”), which represents registered nurses employed at St. Vincent, opposes the Motion. The CNA makes the following arguments and representations in support of its opposition:

The Debtors have not demonstrated that they have provided the notice of the contemplated closure that is required under California law. Specifically, the contemplated closure violates the following provisions of the Cal. Health & Safety Code:

- Cal. Health & Safety Code § 1255.1(a) requires that any hospital providing emergency medical services give 90 days’ advance notice of the elimination of such services to “the state department, the local government entity in charge of the provision of health services, and all health care service plans or other entities under contract with the hospital to provide services to enrollees of the plan or other entity.”
- Cal. Health & Safety Code § 1225.1(b) requires a hospital to provide 90 days’ advance notice of the closure “in a manner that is likely to reach a significant number of residents of the community” serviced by the hospital.
- Cal. Health & Safety Code § 1255.25(a)(1) requires that not less than 30 days prior to the closure, the hospital (1) post notice of the closure “at the entrance to all affected facilities” and (2) provide notice of the closure to the department and the board of supervisors of the county in which the hospital is

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**CONT... Verity Health System of California, Inc.**  
located.

**Chapter 11**

- Cal. Health & Safety Code § 1255.25(b)(2) requires that not less than 30 days prior to closure, the hospital provide notice to Medicare and Medi-Cal beneficiaries, including information on the nearest available facilities providing similar healthcare services.

The notification requirements serve a vital role in helping underserved communities prepare for the devastating loss of essential healthcare services. As set forth in a January 7, 2020 letter from California State Senator Maria Elena Durazo and California State Assembly Member Wendy Carrillo, who represent constituents in the district in which St. Vincent is located, closure of the hospital will be “devastating” for the district, and the public notice requirement “is crucial because it gives [the public] time to figure out where patients should be going to receive care in the area” and “ensure[s] workers are not left unemployed ....”

In *Norris Square Civic Ass’n v. St. Mary Hosp. (In re St. Mary Hosp.)*, the Bankruptcy Court enjoined a hospital from closing because it had failed to comply with applicable notice requirements imposed by state law. 86 B.R. 393, 400 (Bankr. E.D. Pa. 1988). The Motion should be denied based on the Debtors’ failure to comply with the notice requirements imposed by California law.

The timeframe proposed by the Debtors for closing the emergency department creates an unreasonable risk to public safety. The Debtors plan to close the emergency department within three days after entry of an order granting the Motion. Even if ambulances are placed on diversion status, many residents of the community will still drive to the emergency department to receive care. Based on the most recent filing with the California Office of Statewide Health Planning and Development, the emergency department receives approximately 83 visits per day.

## **II. Findings and Conclusions**

### **A. CNA Lacks Standing to Enforce the Provisions of the California Health & Safety Code Against the Debtors**

The provisions of the California Health & Safety Code cited by CNA are enforced by the California Department of Public Health (the “CDPH”). The CDPH has not filed an opposition to the Motion. CNA lacks standing to enforce the cited provisions of the Health & Safety Code against the Debtors on CDPH’s behalf.

CNA would have standing to enforce the California Health & Safety Code only if the statute created a private right of action. The California Supreme Court has

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Chapter 11

explained that a private right of action exists under the following circumstances:

A violation of a state statute does not necessarily give rise to a private cause of action. Instead, whether a party has a right to sue depends on whether the Legislature has “manifested an intent to create such a private cause of action” under the statute....

A statute may contain “ ‘clear, understandable, unmistakable terms,’ ” which strongly and directly indicate that the Legislature intended to create a private cause of action. For instance, the statute may expressly state that a person has or is liable for a cause of action for a particular violation. (See, e.g., Civ.Code, § 51.9 [“A person is liable in a cause of action for sexual harassment” when a plaintiff proves certain elements]; Health & Saf.Code, § 1285, subd. (c) [“Any person who is detained in a health facility solely for the nonpayment of a bill has a cause of action against the health facility for the detention”].) Or, more commonly, a statute may refer to a remedy or means of enforcing its substantive provisions, i.e., by way of an action.

*Lu v. Hawaiian Gardens Casino, Inc.*, 50 Cal. 4th 592, 597, 236 P.3d 346, 348 (2010) (internal citations omitted).

None of the sections cited by CNA contains language expressly creating a private right of action. Further, there is no indication that the legislature intended for private entities to have the ability to enforce those provisions against hospitals. *See Lu*, 50 Cal. 45th at 600 (providing that if a statute does not expressly create a private right of action, there must be a “clear indication” that the legislature intended to do so). To the contrary, the structure of the statute indicates that the legislature delegated enforcement responsibilities solely to the CDPH. The provisions cited by CNA are contained within the chapter of the statute pertaining to licensure. That chapter also contains provisions setting forth the circumstances under which a health facility’s license may be revoked, including the manner in which the CDPH must conduct hearings on license revocation. *See* Cal. Health & Safety Code § 1294 (the “state department may suspend or revoke any license or special permit issued under the provisions of this chapter upon any of the following grounds ....”); *id.* at § 100171 (containing procedures for hearings on licensure).

In addition, at least one court has held that a provision contained within Division 2 of the Health & Safety Code (the same division containing the provisions cited by CNA) does not create a private right of action. *See John Muir Health v. Glob. Excel*

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*Mgmt.*, No. C-14-04226 DMR, 2014 WL 6657656, at \*4 (N.D. Cal. Nov. 21, 2014) (dismissing a claim brought under Cal. Health & Safety Code § 13714(b) because the provision did not create a standalone private right of action).

Because CNA lacks standing to enforce the Cal. Health & Safety Code, the Court does not consider its arguments.

**B. The Debtors Are Authorized to Close St. Vincent**

Section 363(b) authorizes a debtor to use property of the estate outside the ordinary course of business upon court approval. The debtor must articulate a “business justification” to use property outside the ordinary course of business. *In re Walter*, 83 B.R. 14, 19–20 (B.A.P. 9th Cir. 1988). Whether the articulated business justification is sufficient “depends on the case,” in view of “all salient factors pertaining to the proceeding.” *Id.* at 19–20.

The Debtors’ decision to close St. Vincent constitutes a “use” of estate property within the meaning of § 363(b). The Debtors have articulated a sufficient business justification for closing St. Vincent. The following facts have been established by the declarations submitted in support of the Motion:

- No buyer has presented a realistic bid to purchase St. Vincent as a stand-alone hospital. Moloney Decl. at ¶ 4. Although James M. Moloney, the Debtors’ investment banker, had a telephone conversation with a potential bidder on January 6, 2020, that bidder had conducted limited due diligence and did not have experience with the regulatory approval process required to purchase a hospital. *Id.* Further, the the bidder’s intended use for St. Vincent was as a real-estate investment if the bidder’s hospital operating partner could not develop a viable plan to operate St. Vincent’s profitably. *Id.*
- St. Vincent is generating substantial operating losses. As of the Petition Date, St. Vincent accounted for approximately 23% of the patient volume of the entire Verity Health System, but was responsible for 60% of the operating losses. Chadwick Decl. at ¶ 6. If the Debtors do not implement the Closure Plan rapidly, they will lack sufficient funds to conduct an orderly closure of St. Vincent. Adcock Decl. at ¶ 7.
- The Debtors lack sufficient funds to continue to subsidize St. Vincent’s operating losses. Absent the closure of St. Vincent, the Debtors will be unable to continue operating their other hospitals. Chadwick Decl. at ¶ 9.

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Since there is no viable means for the Debtors to continue St. Vincent's operations, implementation of the Closure Plan is necessary to sustain public health and welfare. Public safety would be jeopardized if the Debtors allowed St. Vincent to remain open while lacking sufficient funds to support its operations. In this respect, the Court notes that the Debtors do not have the ability to borrow under any debtor-in-possession financing facility. The Debtors' cases are being financed by a consensual cash collateral stipulation executed between the Debtors and the principal secured creditors (the "Cash Collateral Stipulation"). Under the Cash Collateral Stipulation, the Debtors' ability to use cash collateral terminates on January 31, 2020.

The Closure Plan preserves patient safety. Acute care patients will be transferred to Good Samaritan Hospital, which is located approximately one mile from St. Vincent. Adcock Decl. at ¶ 8. St. Joseph Hospital has agreed to assume care of the kidney transplant patients who are part of the St. Vincent Transplant Program, subject to approval of the United Network for Organ Sharing. *Id.*

The Court is fully cognizant of the hardship that closure of St. Vincent will have upon employees and members of the surrounding community, and takes no pleasure in authorizing closure. The absence of any serious purchaser willing to acquire St. Vincent as a going-concern has placed all constituencies in this case in a difficult position. However, forcing the Debtors to keep St. Vincent open when there is insufficient money to operate it would only make the situation far worse.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Rosa A Shirley

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**2:18-18022 Andrew's & Son Tradings Inc.**

**Chapter 11**

**#14.00** HearingRE: [145] Motion For Final Decree and Order Closing Case.

Docket 145

**Tentative Ruling:**

1/7/2020

For the reasons set forth below, the Motion is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Entry of Final Decree, Discharge, and Order Closing Debtor's Chapter 11 Case [Doc. No. 145] (the "Motion")
- 2) Post-Confirmation Status Report [Doc. No. 148]
- 3) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

Andrew's & Son Tradings Inc. dba Beston Shoes (the "Debtor") filed a voluntary Chapter 11 petition on July 13, 2018. On September 26, 2019, the Court entered an order confirming the Debtor's *Second Amended Chapter 11 Plan of Reorganization as of April 16, 2019* (the "Plan") [Doc. No. 134] (the "Confirmation Order"). The Plan's effective date was on October 10, 2019 (the "Effective Date"). The Plan provides for the Debtor to make payments to creditors over a 60-month period. The Debtor further asserts that the Plan has been substantially consummated because 1) the Confirmation Order has become final and non-appealable, 2) payments contemplated under the Plan were made on the Effective Date and remain ongoing, 3) the Debtor has re-assumed management of its business, and 4) all motions and contested matters have been resolved, and there are no pending adversary proceedings.

Based on the foregoing, the Debtor requests entry of a final decree and discharge and an order closing the case.

As of the preparation of this tentative ruling, no opposition is on file.

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Chapter 11

**II. Findings and Conclusions**

Pursuant to § 350(a) and Bankruptcy Rule 3022, the Court shall enter a final decree closing a chapter 11 case after the estate is fully administered. In determining whether an estate is fully administered, a court should consider:

- (1) whether the order confirming the plan has become final;
- (2) whether deposits required by the plan have been distributed;
- (3) whether the property proposed by the plan to be transferred has been transferred;
- (4) whether the debtor or the successor of the debtor under the plan has assumed the business of the management of the property dealt with by the plan;
- (5) whether payments under the plan have commenced; and
- (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.

*In re Ground Systems, Inc.*, 213 B.R. 1016, 1019 (9th Cir. BAP 1997), quoting Fed. R. Bankr. P. 3022 advisory committee's notes (1991). Pursuant to Federal Rule of Bankruptcy Procedure 3022, a case may be fully administered even though all payments contemplated under a chapter 11 plan have not been completed. *See id.*

Here, the order confirming the Plan has become final, the Debtor has commenced making payments under the Plan, and there are no pending adversary proceedings or contested matters. The Court finds that entry of a final decree and discharge is appropriate.

A Post-Confirmation Status Conference is currently scheduled for January 14, 2020, at 10:00 a.m. Having reviewed the *Post-Confirmation Status Report*, the Court finds that the Debtor is performing under the Plan. The Post-Confirmation Status Conference is taken off calendar. Unless otherwise ordered by the Court, no further Post-Confirmation Status Conferences will be conducted.

Based upon the foregoing, the Motion is GRANTED. The Debtor shall submit a proposed order, incorporating this tentative ruling by reference, within seven days of the hearing. The Court will prepare and enter an order taking the Post-Confirmation Status Conference off calendar.

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**CONT... Andrew's & Son Tradings Inc.**

**Chapter 11**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Andrew's & Son Tradings Inc.

Represented By  
Christopher J Langley  
Steven P Chang  
David Samuel Shevitz



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**2:19-22001 Luther Raymond Livingston, III**

**Chapter 7**

**#1.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: Blue Shield Bronze 60 PPO health insurance policy . (Still, Andrew)

Docket 8

**Tentative Ruling:**

1/10/2020

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362 (d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to terminate health insurance coverage pursuant to applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

The Court takes note of the following facts. Luther Raymond Livingston, III, (the "Debtor") purchased a Bronze 60 PPO health insurance policy (the "Policy") from Blue Shield (the "Movant") through the Covered California website. Declaration of Mary Ann Lagura ("Lagura Decl."), ¶ 3. Pursuant to the Policy's terms, the Debtor was required to tender monthly premium payments of \$352.17 by the first day of each month. *See id.*, ¶ 4, Ex. 2. Additionally, until October 2019, the Debtor received advance payments of premium tax credits of \$2.37 from the government to apply against the Policy's monthly premium charges. *See Lagura Decl.*, ¶ 4, Ex. 2. The Debtor defaulted on the Policy's premium payments starting on October 1, 2019. Lagura Decl., ¶ 6. On October 3, 2019, the Movant delivered to Debtor a past due letter, providing that his last day of paid coverage was September 30, 2019, and that the Policy would be terminated unless the Debtor paid late charges by December 31,

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**Chapter 7**

2019. *Id.*, Ex. 3. On October 10, 2019, unbeknownst to the Movant, the Debtor commenced the instant bankruptcy case. Lagura Decl., ¶ 9.

Pursuant to applicable federal law [Note 1], on or about November 5, 2019, the Debtor was sent another past due notice, stating that Debtor's coverage would be terminated at the end of a three-month grace period on December 31, 2019. *See* Lagura Decl., Exs. 3, 4. The Movant further attests that Debtor has failed to remit payment for past due amounts or accrued arrearages totaling \$701.97 as of the filing of this motion. *Id.*, ¶¶ 7, 8.

Based on the foregoing, the Court finds that Movant has asserted good cause to lift the automatic stay as to the Policy. *See, e.g., In re Probulk, Inc.*, 407 B.R. 56, 62 (Bankr. S.D.N.Y. 2009) ("a party to a contract [is prevented] from terminating the contract or taking action to deem the contract terminated after the bankruptcy case has commenced without seeking relief from the stay, and it is obviously applicable to insurance contracts.") (citing 3 Collier on *Bankruptcy* ¶ 362.03[5][b] (15th ed. 2005) ("Certainly an insurer should not be permitted to cancel a policy merely because a debtor is in bankruptcy."). Furthermore, the stay is annulled retroactive to the petition date, so that enforcement actions taken by Movant, if any, before receipt of notice of the automatic stay will not be deemed to have been voided by the automatic stay.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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**Chapter 7**

**Note 1:** Under 45 C.F.R. Section 156.270(g), "[i]f an enrollee receiving advance payments of the premium tax credits exhausts the 3-month grace period...without paying all outstanding premiums...the QHP issuer must terminate the enrollee's coverage on the effective date described in Section 155.430(d)(4) ['the last day of the first month of the 3-month grace period'], provided the QHP issuer meets the notice requirement specified in paragraph (b) of this section." Paragraph (b)(1) of the referenced section provides that the QHP issuer "must, promptly and without undue delay...provide the enrollee with a notice of termination that includes the termination effective date and reason for termination."

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

Luther Raymond Livingston III

Represented By  
John Asuncion

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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**2:19-24209 Ethel Belle Cole**

**Chapter 7**

**#2.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 HONDA CIVIC, VIN: 19XF C2F6 4KE2 00219 .

Docket 8

**Tentative Ruling:**

1/10/2020

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the

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Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Ethel Belle Cole

Represented By  
Gregory M Shanfeld

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

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**2:16-16496 JW Wireless Inc.**

**Chapter 7**

Adv#: 2:18-01097 John J. Menchaca, Solely in his Capacity as Chapte v. CELLCO Partnership

**#1.00 Status Hearing**

RE: [117] Amended Complaint FIRST AMENDED COMPLAINT FOR: 1. Avoidance and Recovery of Constructive Fraudulent Transfer (Verizon) 2.Avoidance and Recovery of Preferential Transfer (BJ Mobile) 3.Avoidance and Recovery of Preferential Transfer (Jetworld) 4. Avoidance and Recovery of Preferential Transfer (JW OKC) 5. Avoidance and Recovery of Intentional Fraudulent Transfer (BJ Mobile) 6.Avoidance and Recovery of Constructive Fraudulent Transfer (BJ Mobile) 7. Avoidance and Recovery of Intentional Fraudulent Transfer (Jetworld) 8. Avoidance and Recovery of Constructive Fraudulent Transfer (Jetworld) 9.Avoidance and Recovery of Intentional Fraudulent Transfer (JW OKC) 10.Avoidance and Recovery of Constructive Fraudulent Transfer (JW OKC) 11. Avoidance and Recovery of Intentional Fraudulent Transfer (JWK Management) 12.Avoidance and Recovery of Constructive Fraudulent Transfer (JWK Management) 13. Avoidance and Recovery of Intentional Fraudulent Transfer (Jetstar Auto) 14.Avoidance and Recovery of Constructive Fraudulent Transfer (Jetstar Auto) 15.Avoidance and Recovery of Intentional Fraudulent Transfer (Ben Her) 16.Avoidance and Recovery of Constructive Fraudulent Transfer (Ben Her) 17. Avoidance and Recovery of Intentional Fraudulent Transfer (Lee) 18.Avoidance and Recovery of Constructive Fraudulent Transfer (Lee) 19. Substantive Consolidation (Jetworld, Jetstar Auto) 20.Declaratory Judgment: Alter Ego (Jetworld, Jetstar Auto, Ben Her, Lee) 21.Recovery of Unauthorized Distributions/Recharacterization as Equity (Jetworld, Lee) 22. Recovery of Unauthorized Distributions/Recharacterization as Equity (Joan Yu and Ben Her) 23. Recovery of Unauthorized Distributions/Recharacterization as Equity (Chu Feng Yu and Ben Her) 24. Turnover 25.Preservation of Avoided Transfers with Proof of Service by Thomas J Eastmond on behalf of John J Menchaca (TR) against all defendants. (RE: related document(s)1 Adversary case 2:18-ap-01097. Complaint by John J. Menchaca, Solely in his Capacity as Chapter 7 Trustee for the Bankruptcy Estate of JW Wireless, Inc. against CELLCO Partnership dba Verizon Wireless, a Delaware limited partnership, BJ Mobile, Inc., a California corporation, JETWORLD, Inc., a California corporation, JW Wireless OKC, an Oklahoma limited liability company, JWK Management, Inc., a California corporation, JETSTAR Auto Sports, Inc., a California corporation, Shaigan Ben Her, an individual, Lea Young Lee, an individual, Joan Yu, an

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CONT...

**JW Wireless Inc.**

**Chapter 7**

individual, Chu Feng Yu, an individual, Carolyn Rhyoo, an individual. (Charge To Estate). with Adversary Cover Sheet and Summons and Notice of Status Conference Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)) filed by Plaintiff John J. Menchaca, Solely in his Capacity as Chapter 7 Trustee for the Bankruptcy Estate of JW Wireless, Inc.). (Eastmond, Thomas)

Docket 117

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

JW Wireless Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

CELLCO Partnership dba Verizon

Represented By  
Lawrence J Hilton  
Mark S Cander

BJ Mobile, Inc., a California

Represented By  
Kelvin J Lo

JETWORLD, Inc., a California

Represented By  
Gary M Jackson

JW Wireless OKC, an Oklahoma

Represented By  
Kelvin J Lo

JWK Management, Inc., a California

Represented By  
Michael H Yi

JETSTAR Auto Sports, Inc., a

Represented By  
Gary M Jackson

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**CONT... JW Wireless Inc.**

**Chapter 7**

Shaigan Ben Her, an individual

Represented By  
Kelvin J Lo

Lea Young Lee, an individual

Represented By  
Gary M Jackson

Joan Yu, an individual

Represented By  
Kelvin J Lo

Chu Feng Yu, an individual

Represented By  
Kelvin J Lo

Carolyn Rhyoo, an individual

Pro Se

**Plaintiff(s):**

John J. Menchaca, Solely in his

Represented By  
Thomas J Eastmond  
Robert P Goe

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Robert P Goe  
Thomas J Eastmond



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**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01390 Elissa D. Miller, solely in her capacity as chapte v. Mulligan's Painters, Inc.,

- #2.00** Status Conference to Monitor Consummation of Settlement  
RE: [1] Adversary case 2:18-ap-01390. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Mulligan's Painters, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-25-19**

**Tentative Ruling:**

8/8/2019

The Court conducted an initial Status Conference on March 19, 2019, and subsequently issued an order setting litigation deadlines. The Court did not order formal mediation, in view of the parties' representation that they had engaged in preliminary settlement discussions. At the Status Conference conducted on June 11, 2019, the Court advised the parties that the matter would be ordered to formal mediation at the August 13, 2019 Status Conference unless the parties had demonstrated they had engaged in meaningful settlement discussions.

Based upon its review of the Joint Status Report, it does not appear to the Court that the parties are making meaningful progress toward settlement. Good cause appearing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.
- 2) The litigation deadlines previously ordered shall continue to apply, subject to an extension for good cause shown.

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**CONT...**

**QUIGG LA11, LLC**

**Chapter 7**

- 3) Absent further order of the Court, no further Status Conferences will be conducted.

Plaintiff shall submit an order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Mulligan's Painters, Inc., a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
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**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01397 Elissa D. Miller, solely in her capacity as chapte v. Allied Roofing and

**#3.00** Status Conference to Monitor Consummation of Settlement  
RE: [1] Adversary case 2:18-ap-01397. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Allied Roofing and Waterproofing, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

8/8/2019

See Cal. No. 4, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Allied Roofing and Waterproofing,

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By

**United States Bankruptcy Court  
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**CONT... QUIGG LA11, LLC**

**Chapter 7**

Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
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**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01404 Elissa D. Miller, solely in her capacity as chapte v. BMC Stock Holdings,

**#4.00 Status Hearing**

RE: [1] Adversary case 2:18-ap-01404. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against BMC Stock Holdings, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 3-19-19; 6-11-19; 8-13-19; 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-28-19**

**Tentative Ruling:**

10/11/2019

The Court conducted an initial Status Conference on March 19, 2019. The Court did not order formal mediation, in view of the parties' representation that they had engaged in preliminary settlement discussions.

The Trustee and the Defendant have agreed upon an open-ended extension of Defendant's deadline to respond to the Complaint, terminable by the Trustee, to enable the parties to engage in settlement discussions.

Based upon its review of the Trustee's Unilateral Status Report, it does not appear to the Court that the parties are making meaningful progress toward settlement. Therefore, the Court will order the matter to formal mediation and will set a deadline by which Defendant must respond to the Complaint.

Good cause appearing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Defendant shall respond to the Complaint by no later than **11/12/2019**.
- 2) A continued Status Conference shall be held on **1/14/2020 at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.
- 3) The following litigation deadlines shall apply:
  - a) The last day to amend pleadings and/or join other parties is **2/13/2020**.

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**QUIGG LA11, LLC**

**Chapter 7**

- b) The last day to disclose expert witnesses and expert witness reports is **5/26/2020**.
- c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **6/25/2020**.
- d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **7/14/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **7/21/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **7/25/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **8/11/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to

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**QUIGG LA11, LLC**

**Chapter 7**

the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
  - i) Trial is set for the week of **8/24/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 4) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the

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CONT... **QUIGG LA11, LLC**

**Chapter 7**

order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

BMC Stock Holdings, Inc., a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel



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10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01408 Elissa D. Miller, solely in her capacity as chapte v. Cook Development

- #5.00** Status Conference to Monitor Consummation of Settlement  
RE: [1] Adversary case 2:18-ap-01408. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Cook Development Company, a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

8/8/2019

The Court notes that the Defendant, possibly in error, checked the box indicating that it does not consent to the Bankruptcy Court's entry of a final judgment. On March 20, 2019, the Court entered a Scheduling Order predicated upon the Defendant's consent to the Bankruptcy Court's entry of a final judgment. *See* Doc. No. 13 (the "Scheduling Order"). The Scheduling Order provides in relevant part:

Defendant has timely demanded a jury trial in this avoidance action, has not filed a proof of claim against the estate, and consents to having the jury trial conducted by the Bankruptcy Court. Under these circumstances, Defendant is entitled to a jury trial. *See Langenkamp v. Culp*, 498 U.S. 42, 45 (1990) ("If a party does *not* submit a claim against the bankruptcy estate, however, the trustee can recover allegedly preferential transfers only by filing what amounts to a legal action to recover a monetary transfer. In those circumstances the preference defendant is entitled to a jury trial."). Because both Plaintiff and Defendant have consented to the Bankruptcy Court's entry of final judgment, the jury trial will be conducted by the Bankruptcy Court. *See* Bankruptcy Rule 9015(b) (stating that the Bankruptcy Court may conduct a jury trial only with the consent of all parties).

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**CONT... QUIGG LA11, LLC**

**Chapter 7**

Scheduling Order at ¶ 1.

Defendant is not allowed to withdraw its consent to the Bankruptcy Court's entry of a final judgment at this stage of the proceedings.

On March 20, 2019, the Court ordered the Chapter 7 Trustee (the "Trustee") to submit an order assigning this matter to mediation (the "Mediation Order"). Doc. No. 31. The Trustee failed to submit the Mediation Order. On June 26, 2019, the Court once again ordered the Trustee to submit the Mediation Order. Doc. No. 17. The Mediation Order has not yet been submitted.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The Trustee shall submit the Mediation Order by no later than **August 27, 2019**. If the Trustee does not comply with this deadline, the Court will require the Trustee to appear and show cause why this action should not be dismissed for failure to prosecute, pursuant to Civil Rule 41.
- 2) Defendant shall be deemed to have consented to the Bankruptcy Court's entry of a final judgment in this action.
- 3) The litigation deadlines previously ordered shall continue to apply, subject to an extension for good cause shown.
- 4) Absent further order of the Court, no further Status Conferences will be conducted.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

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CONT... **QUIGG LA11, LLC**

**Chapter 7**

**Defendant(s):**

Cook Development Company, a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

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**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01409 Elissa D. Miller, solely in her capacity as chapt v. Hankey Capital, LLC, a

**#6.00 Status Hearing**

RE: [1] Adversary case 2:18-ap-01409. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Hankey Capital, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 3-19-19; 6-11-19; 8-13-19; 10-15-19

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**Tentative Ruling:**

1/13/2020

On October 24, 2019, the Court entered an *Order (1) Setting Continued Status Conference for January 14, 2020 at 10:00 a.m. and (2) Setting Litigation Deadlines* (the "Scheduling Order") [Doc. No. 35]. The Chapter 7 Trustee (the "Trustee") has granted the Defendant an extension of time to respond to the Complaint, terminable by the Trustee, while the parties discuss settlement.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines set by way of the Scheduling Order shall continue to apply, subject to an extension for good cause shown.
- 2) A continued Status Conference shall be held on **May 12, 2020, at 10:00 a.m.** The parties shall submit a Joint Status Report by no later than fourteen days prior to the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

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**CONT... QUIGG LA11, LLC**

**Chapter 7**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Hankey Capital, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
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**2:17-12677 Green Jane Inc**

**Chapter 7**

Adv#: 2:19-01061 Rosendo Gonzalez, Chapter 7 Trustee v. TCG Assets, Inc., a Colorado

**#7.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01061. Complaint by Rosendo Gonzalez, Chapter 7 Trustee against TCG Assets, Inc., a Colorado corporation, TCG International Holdings, Inc., a Florida corporation, Michael B. Citron, an individual, Kenneth R. Morris, an individual, Law Office of Kenneth R. Morris LLC, a Colorado limited liability company, The Ulzheimer Group LLC, a Georgia limited liability, John Ulzheimer, an individual, Nicholas Moffat, an individual. (Charge To Estate). Complaint for 1. Avoidance of Transfers Pursuant to 11 U.S.C. § 544; 2. Avoidance of Avoidable Transfers Pursuant to 11 U.S.C. § 548; 3. Recovery on Account of Avoided Transfers Pursuant to 11 U.S.C. § 550(a); 4. Turnover of Funds of Estate Pursuant to 11 U.S.C. § 542; and 5. Breach of Fiduciary Duty 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)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Melissinos, C)

FR. 5-14-19; 7-16-19; 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 1-14-20**

**Tentative Ruling:**

10/11/2019

On May 9, 2019, the Court entered an order approving a settlement between the Chapter 7 Trustee (the "Trustee") and Defendants John Ulzheimer and the Ulzheimer Group, LLC (collectively, the "Ulzheimer Defendants"). On May 22, 2019, the Trustee dismissed all claims against the Ulzheimer Defendants.

Defendants TCG Assets, Inc., TCG Int'l Holdings, Inc., Michael B. Citron, Kenneth R. Morris, the Law Office of Kenneth R. Morris LLC, and Nicholas Moffat (collectively, the "Remaining Defendants") are represented by Manny Singh, solely for the purposes of settlement. Mr. Singh is located in Fort Lauderdale, Florida, and is not licensed to practice law in the State of California.

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**CONT... Green Jane Inc**

**Chapter 7**

On August 2, 2019, all of the Remaining Defendants except for Nicholas Moffat ("Moffat") executed a settlement agreement (the "Settlement Agreement"). Mr. Singh has assured the Trustee that Moffat's signature is forthcoming, but no signature has been provided to the Trustee. However, the Remaining Defendants have made the first three installment payments required under the Settlement Agreement. The Trustee intends to seek approval of the Settlement Agreement. If Moffat does not sign the Settlement Agreement, the Trustee intends to strike Moffat from the Settlement Agreement and pursue a default judgment against Moffat.

Based upon the foregoing, and having reviewed the Trustee's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **January 14, 2020, at 10:00 a.m.** The Trustee shall submit a Status Report by no later than fourteen days prior to the hearing.
- 2) The Court will maintain the litigation deadlines set by way of the *Order (1) Setting Litigation Deadlines and (2) Setting Continued Status Conference for October 15, 2019 at 10:00 a.m.* [Doc. No. 23] issued on July 18, 2019. In the Court's experience, the maintenance of litigation deadlines is the best means of facilitating settlement.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**United States Bankruptcy Court  
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**CONT... Green Jane Inc**

**Chapter 7**

**Defendant(s):**

TCG Assets, Inc., a Colorado	Pro Se
TCG International Holdings, Inc., a	Pro Se
Michael B. Citron, an individual	Pro Se
Kenneth R. Morris, an individual	Pro Se
Law Office of Kenneth R. Morris	Pro Se
The Ulzheimer Group LLC, a	Pro Se
John Ulzheimer, an individual	Pro Se
Nicholas Moffat, an individual	Pro Se

**Plaintiff(s):**

Rosendo Gonzalez, Chapter 7	Represented By C John M Melissinos
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**Trustee(s):**

Rosendo Gonzalez (TR)	Represented By Thomas A Willoughby Keith Patrick Banner C John M Melissinos
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10:00 AM

**2:17-15115 John Martin Kennedy**

**Chapter 7**

Adv#: 2:17-01377 Campos v. Kennedy, MD

**#8.00 Status Hearing**

RE: [1] Adversary case 2:17-ap-01377. Complaint by Yunuen Campos against John Martin Kennedy. willful and malicious injury)) (Dean, Lauren)

fr: 11-14-17; 2-13-18; 5-15-18; 8-14-18; 10-16-18; 1-23-19; 5-14-19; 9-10-19

Docket 1

**Tentative Ruling:**

1/13/2020

Plaintiff has obtained final judgment in the State Court (the “State Court Judgment”) against Defendant, awarding Plaintiff damages of \$225,000 for sexual battery (Cal. Civ. Code § 1798.5), gender violence (Cal. Civ. Code § 52.4), and violation of the Ralph Civil Rights Act (Cal. Civ. Code § 57.7). The portion of the State Court Judgment awarding Plaintiff attorneys’ fees in the amount of approximately \$2.5 million remains subject to an appeal and is not yet final. However, the State Court Judgment’s award of costs in the amount of \$84,090.34 is final.

On February 4, 2019, the Court found that the portion of the State Court Judgment awarding damages and costs was non-dischargeable pursuant to § 523(a)(6). Doc. Nos. 42 and 45–46. The Court stated that adjudication of the dischargeability of the fee portion of the State Court Judgment would occur once that aspect of the judgment became final. The fee portion of the State Court Judgment has not yet become final.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **January 14, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which shall discuss the status of Defendant’s appeal of the fee portion of the State Court Judgment, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

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**CONT...**

**John Martin Kennedy**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

John Martin Kennedy

Represented By  
Jeffrey S Shinbrot

**Defendant(s):**

John M. Kennedy MD

Represented By  
Jeffrey S Shinbrot

**Plaintiff(s):**

Yunuen Campos

Represented By  
Robert S Lampl  
Lauren A Dean

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01384 Mastan, Chapter 7 Trustee v. Discover Bank et al

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01384. Complaint by Peter J. Mastan, Chapter 7 Trustee against Discover Bank, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19

Docket 1

**Tentative Ruling:**

1/13/2020

Default was entered against Defendant Discover Bank on October 29, 2019. Doc. No. 13. The Chapter 7 Trustee (the "Trustee") is in settlement communications with Defendant Jason Cho.

Having reviewed the Status Report submitted by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") against Discover Bank by no later than **February 14, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) As to Defendant Jason Cho, the litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **12/12/2019**.
  - b) The last day to disclose expert witnesses and expert witness reports is **3/24/2020**.

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**Keystone Textile, Inc.**

**Chapter 7**

- c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **4/23/2020**.
- d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **5/19/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **5/26/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **5/23/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **6/16/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a

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**Chapter 7**

Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **6/22/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 3) As to the claims against Defendant Jason Cho, the matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you

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**CONT... Keystone Textile, Inc. Chapter 7**

intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Discover Bank

Pro Se

Jason Young Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01385 Mastan, Chapter 7 Trustee v. US Bank, N.A. et al

**#10.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01385. Complaint by Peter J. Mastan, Chapter 7 Trustee against US Bank, N.A., Kenny Hwang, Hee Jung Lee. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19

Docket 1

**Tentative Ruling:**

1/13/2020

Defendant U.S. Bank, N.A. ("U.S. Bank") has not responded to the Complaint. However, the Chapter 7 Trustee (the "Trustee") and U.S. Bank are engaged in settlement discussions. As to Defendant Kenny Hwang, the Trustee's claims are currently stayed as a result of the filing of Hwang's voluntary Chapter 7 petition.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In view of the delay resulting from the stay arising in Defendant Hwang's Chapter 7 voluntary petition, the litigation deadlines previously ordered by the Court are **VACATED**.
- 2) A continued Status Conference shall be held on **March 17, 2020, at 10:00 a.m.**, concurrently with the Status Conferences in related avoidance actions filed by the Trustee. A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

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**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

US Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

Hee Jung Lee

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#11.00** Status Hearing  
RE: [11] Crossclaim by HSBC Bank, N.A. against Jason Young Cho, Youngduk Duk Cho

Docket 11

**Tentative Ruling:**

1/13/2020

The Chapter 7 Trustee (the "Trustee") is in settlement communications with Defendant HSBC Bank USA, N.A. ("HSBC") and Jason Cho. As to Defendant Kenny Hwang, the Trustee's claims are currently stayed as a result of the filing of Hwang's voluntary Chapter 7 petition.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In view of the delay resulting from the stay arising in Defendant Hwang's Chapter 7 voluntary petition, the litigation deadlines previously ordered by the Court are **VACATED**.
- 2) In the interests of judicial efficiency, the crossclaim asserted by HSBC against Kenny Hwang and Jason Cho shall be tried concurrently with the Trustee's avoidance claims.
- 3) A continued Status Conference shall be held on **March 17, 2020, at 10:00 a.m.**, concurrently with the Status Conferences in related avoidance actions filed by the Trustee. A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

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**CONT... Keystone Textile, Inc. Chapter 7**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Represented By  
Jennifer Witherell Crastz

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#12.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01386. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19

Docket 1

**Tentative Ruling:**

1/13/2020

See Cal. No. 11, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Pro Se

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

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**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01387 Mastan, Chapter 7 Trustee v. Bank of Hope et al

**#13.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01387. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of Hope, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19

Docket 1

**Tentative Ruling:**

1/13/2020

Having reviewed the Joint Status Report submitted by the parties, the Court

**HEREBY ORDERS AS FOLLOWS:**

- 1) Defendant Bank of Hope does not consent to the entry of final judgment by the Bankruptcy Court. The Court lacks constitutional authority to enter final judgment in this avoidance action absent consent of all the parties. *See Executive Benefits Ins. Agency v. Arkison (In re Bellingham Ins. Agency, Inc.)*, 702 F.3d 553 (9th Cir. 2012). Because Bank of Hope has not consented to entry of a final judgment by this Court, the Court will prepare and transmit to the District Court a Report and Recommendation containing proposed findings and a proposed judgment.
- 2) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **12/12/2019**.
  - b) The last day to disclose expert witnesses and expert witness reports is **3/24/2020**.

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**Keystone Textile, Inc.**

**Chapter 7**

- c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **4/23/2020**.
- d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **5/19/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **5/26/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **5/23/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **6/16/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a

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**Keystone Textile, Inc.**

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Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **6/22/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 3) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel

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Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of Hope

Pro Se

Jason Young Cho

Pro Se

Youngduk Duk Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01388 Mastan, Chapter 7 Trustee v. Bank of America, N.A. et al

**#14.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01388. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of America, N.A.. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19

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**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of America, N.A.

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By

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**CONT...**

**Keystone Textile, Inc.**

Meghann A Triplett  
Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01393 Mastan, Chapter 7 Trustee v. Hwang et al

**#15.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01393. Complaint by Peter J. Mastan, Chapter 7 Trustee against In Young Hwang, Twig & Twine, Inc., Danielle Steckler. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19

Docket 1

**Tentative Ruling:**

1/13/2020

On December 11, 2019, the Court entered an order granting in part and denying in part a Motion to Dismiss filed by Defendant In Young Hwang. Defendant In Young Hwang has until January 31, 2020, to file an Answer to the Complaint.

Having reviewed the Joint Status Report filed by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Defendants Twig & Twine, Inc. and Danielle Steckler do not consent to the entry of final judgment by the Bankruptcy Court. The Court lacks constitutional authority to enter final judgment in this avoidance action absent consent of all the parties. *See Executive Benefits Ins. Agency v. Arkison (In re Bellingham Ins. Agency, Inc.)*, 702 F.3d 553 (9th Cir. 2012). Because Defendants have not consented to entry of a final judgment by this Court, the Court will prepare and transmit to the District Court a Report and Recommendation containing proposed findings and a proposed judgment.

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**Chapter 7**

- 2) The litigation deadlines previously ordered shall continue to apply, as follows:
- a) The last day to amend pleadings and/or join other parties is **12/12/2019**.
  - b) The last day to disclose expert witnesses and expert witness reports is **3/24/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **4/23/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **5/19/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **5/26/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **5/23/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **6/16/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for

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**Keystone Textile, Inc.**

**Chapter 7**

impeachment or rebuttal).

- ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
  - iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **6/22/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
  - 2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the

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order assigning the matter to mediation.

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

In Young Hwang

Pro Se

Twig & Twine, Inc.

Pro Se

Danielle Steckler

Pro Se

DOES 1 through 10

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#16.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

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**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

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**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01403 Mastan, Chapter 7 Trustee v. K2 America, Inc. et al

**#17.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01403. Complaint by Peter J. Mastan, Chapter 7 Trustee against K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; and (5) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

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**Tentative Ruling:**

1/13/2020

Having reviewed the Joint Status Report submitted by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Defendant K2 America, Inc. does not consent to the entry of final judgment by the Bankruptcy Court. The Court lacks constitutional authority to enter final judgment in this avoidance action absent consent of all the parties. *See Executive Benefits Ins. Agency v. Arkison (In re Bellingham Ins. Agency, Inc.)*, 702 F.3d 553 (9th Cir. 2012). Because K2 America, Inc. has not consented to entry of a final judgment by this Court, the Court will prepare and transmit to the District Court a Report and Recommendation containing proposed findings and a proposed judgment.
- 2) The litigation deadlines previously ordered shall continue to apply, as follows:

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- a) The last day to amend pleadings and/or join other parties is **2/13/2020**.
- b) The last day to disclose expert witnesses and expert witness reports is **3/24/2020**.
- c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **4/23/2020**.
- d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **5/19/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **5/26/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **5/23/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **6/16/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).

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**Keystone Textile, Inc.**

**Chapter 7**

- ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
  - iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
  - i) Trial is set for the week of **6/22/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 3) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

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**CONT... Keystone Textile, Inc.**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
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10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01368 Mastan, Chapter 7 Trustee v. XL Fabrics, Inc.

**#18.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01368. Complaint by Peter J. Mastan, Chapter 7 Trustee against XL Fabrics, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

fr. 11-19-19

Docket 1

**Tentative Ruling:**

1/13/2020

Having reviewed the Joint Status Report submitted by the parties, the Court  
**HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **12/12/2019**.
  - b) The last day to disclose expert witnesses and expert witness reports is **3/24/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **4/23/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **5/19/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **5/26/2020**. (If the

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**Tbetty, Inc.**

**Chapter 7**

motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)

- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **5/23/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **6/16/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

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**Tbetty, Inc.**

**Chapter 7**

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **6/22/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

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**CONT... Tbetty, Inc.**

**Chapter 7**

**Defendant(s):**

XL Fabrics, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01370 Mastan, Chapter 7 Trustee v. Royal Textile Print, Inc.

**#19.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01370. Complaint by Peter J. Mastan, Chapter 7 Trustee against Royal Textile Print, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

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Docket 1

**Tentative Ruling:**

1/13/2020

The parties having reached a settlement, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by the Court are **VACATED**.
- 2) A continued Status Conference to monitor consummation of the settlement shall be held on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. In the event the settlement has been consummated, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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CONT... Tbetty, Inc.

**Chapter 7**

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Royal Textile Print, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01372 Mastan, Chapter 7 Trustee v. Romex Textiles, Inc.

**#20.00** Status Hearing  
RE: [1] Adversary case 2:19-ap-01372. Complaint by Peter J. Mastan, Chapter 7 Trustee against Romex Textiles, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

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\*\*\* VACATED \*\*\* REASON: CONTINUED 3-17-20 AT 10:00 A.M.

**Tentative Ruling:**

1/13/2020

Order entered. Status Conference continued to **March 17, 2020, at 10:00 a.m.** pursuant to stipulation.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Romex Textiles, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01389 Mastan v. SYC Fabric, Inc.

**#21.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01389. Complaint by Peter Mastan against SYC Fabric, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

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**Tentative Ruling:**

1/13/2020

The parties having reached a settlement, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by the Court are **VACATED**.
- 2) A continued Status Conference to monitor consummation of the settlement shall be held on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. In the event the settlement has been consummated, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic

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appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

SYC Fabric, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
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Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01390 Mastan v. Traben USA, Inc.

**#22.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01390. Complaint by Peter Mastan against Traben USA, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19

Docket 1

**Tentative Ruling:**

1/13/2020

The parties having reached a settlement, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by the Court are **VACATED**.
- 2) A continued Status Conference to monitor consummation of the settlement shall be held on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. In the event the settlement has been consummated, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Traben USA, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#23.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, January 14, 2020

Hearing Room 1568

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01396 Mastan, Chapter 7 Trustee v. Flintridge Preparatory School, Inc. et al

**#24.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01396. Complaint by Peter J. Mastan, Chapter 7 Trustee against Flintridge Preparatory School, Inc., Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-17-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Flintridge Preparatory School, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01404 Mastan, Chapter 7 Trustee v. Hwang et al

**#25.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01404. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Mirea Rea Hwang, Hyun Hwang, Tri Blossom, LLC, K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery from Subsequent Transferee [11 U.S.C. §§ 544, 548]; (5) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; (6) Conspiracy to Defraud [11 U.S.C. § 105(a)]; (7) For Recovery of Illegal Dividends [Cal. Corp. Code §§ 500, 501 and 506]; and (8) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Triplett, Meghann)

FR. 11-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 12-4-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Hyun Hwang

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

Tri Blossom, LLC

Pro Se

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

Mi Rae Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11868 Maria Guadalupe Ortiz Santos**

**Chapter 7**

Adv#: 2:18-01403 Yoo v. Gutierrez

**#26.00** Status Hearing

RE: [1] Adversary case 2:18-ap-01403. Complaint by Timothy J. Yoo against Eduardo Infanzon Gutierrez. (Charge To Estate). Complaint to Avoid and Recover Fraudulent Transfer [11 U.S.C. §§ 542, 544, 550 and California Civil Code § 3439, et seq.] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Burstein, Richard)

fr. 9-24-19

Docket 1

**Tentative Ruling:**

1/13/2020

On September 26, 2019, the Court entered an order denying the Motion for Summary Judgment filed by the Chapter 7 Trustee (the "Trustee"). Doc. No. 29. On that same date, the Court entered a Scheduling Order and ordered the parties to complete one day of mediation by no later than December 10, 2019. Doc. No. 28.

The parties conducted mediation before Howard Ehrenberg on December 4, 2019. Doc. No. 32. The matter did not settle.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines set by way of the Scheduling Order [Doc. No. 28] shall continue to apply.
- 2) Absent further order of the Court, no additional Status Conferences will be conducted.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Maria Guadalupe Ortiz Santos**

**Chapter 7**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Maria Guadalupe Ortiz Santos

Represented By  
Peter M Lively

**Defendant(s):**

Eduardo Infanzon Gutierrez

Pro Se

**Plaintiff(s):**

Timothy J. Yoo

Represented By  
Richard Burstein

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Richard Burstein



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-14619 Roberto Kai Hegeler**

**Chapter 7**

Adv#: 2:18-01234 Maground, GmbH v. Hegeler

**#27.00 Status Hearing**

RE: [1] Adversary case 2:18-ap-01234. Complaint by Maground, GmbH against Roberto Kai Hegeler. 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)) (Barsness, Christopher)

FR. 12-18-18; 8-7-19

Docket 1

**Tentative Ruling:**

1/13/2020

On March 1, 2018, Maground, GmbH ("Plaintiff") commenced a complaint against Roberto Kai Hegeler (the "Debtor/Defendant") in the United States District Court for the Central District of California (the "District Court"), asserting claims for trademark infringement pursuant to 15 U.S.C. §§1114 and 1125(a), trademark dilution pursuant to 15 U.S.C. §1125(c), unfair competition and false advertising pursuant to 15 U.S.C. §1125(a), cybersquatting pursuant to 15 U.S.C. §1125(d), common law trademark infringement, breach of contract, conversion, and violations of Cal. Bus. & Prof. Code §§14247, 17200, and 17500 (the "District Court Action"). *See* Maground, GmbH v. Roberto Kai Hegeler and Maground, LLC (Doc. No. 1, Case No. 2:18-cv-01760-CJC-JC). On April 23, 2018, Debtor/Defendant filed a voluntary Chapter 7 petition. On May 4, 2018, the District Court stayed the District Court Action pending resolution of Debtor/Defendant's bankruptcy proceeding.

On July 23, 2018, Plaintiff commenced an action against Debtor/Defendant in the Bankruptcy Court (the "Non-Dischargeability Action"). On December 17, 2018, the Bankruptcy Court entered an order (1) *sua sponte* lifting the automatic stay to permit the District Court Action to proceed and (2) staying the Non-Dischargeability Action until entry of a final, non-appealable judgment in the District Court Action. Doc. No. 19 (the "Stay Order"). The Stay Order provided:

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

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10:00 AM

CONT...

**Roberto Kai Hegeler**

**Chapter 7**

The most efficient way to resolve the Non-Dischargeability Action is for Plaintiff to first prosecute the District Court Action to final judgment. In the event Plaintiff obtains judgment in its favor, Plaintiff may then return to the Bankruptcy Court to obtain a determination regarding whether such judgment is dischargeable. The District Court is better equipped than this Court to determine whether Defendant is indebted to Plaintiff on account of the allegations for trademark infringement, trademark dilution, and cybersquatting, all of which require the application of substantive non-bankruptcy law.

Stay Order at ¶ 3.

Trial in the District Court Action is set for November 3, 2020. Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **July 14, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which shall discuss the status of the District Court Action, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Roberto Kai Hegeler

Represented By  
Kirk Brennan

**Defendant(s):**

Roberto Kai Hegeler

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Roberto Kai Hegeler**

**Chapter 7**

**Plaintiff(s):**

Maground, GmbH

Represented By  
Christopher C Barsness

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01255 Ehrenberg, Chapter 7 Trustee v. Hsu, an Individual

**#28.00** Status Hearing RE: [1] Adversary case 2:19-ap-01255. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against George Hsu, an Individual. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**Tentative Ruling:**

1/13/2020

The Clerk of the Court entered Defendant's default on December 4, 2019. Doc. No. 20. A Motion for Default Judgment is set for hearing on February 4, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **March 10, 2020, at 10:00 a.m.**
- 2) In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Fu Kong Inc.**

**Chapter 7**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

George Hsu, an Individual

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01256 Ehrenberg, Chapter 7 Trustee v. Hsu

**#29.00** Status Hearing RE: [1] Adversary case 2:19-ap-01256. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lillian Yu-Li Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**Tentative Ruling:**

1/13/2020

The Clerk of the Court entered Defendant's default on December 20, 2019. Doc. No. 27. A Motion for Default Judgment is set for hearing on February 4, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **March 10, 2020, at 10:00 a.m.**
- 2) In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

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10:00 AM

CONT... **Fu Kong Inc.**

**Chapter 7**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lillian Yu-Li Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01257 Ehrenberg, Chapter 7 Trustee v. Hsu

**#30.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01257. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lung Hsiang Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

fr. 10-15-19

Docket 1

**Tentative Ruling:**

1/13/2020

The Defendant currently lives in China. The Chapter 7 Trustee (the "Trustee") does not know Defendant's whereabouts in China. The Trustee has been unable to serve the Summons and Complaint upon the Defendant. The Trustee has filed separate actions against both George Hsu and Lillian Hsu, and is currently seeking entry of default judgment in both of those proceedings. The Trustee anticipates that resolution of the actions against George Hsu and Lillian Hsu could result in a return of some of the transfers at issue in this proceeding. The Trustee asserts that at the moment, recovery of the transfers against George Hsu and Lillian Hsu is the most economic means of prosecuting this action.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Pursuant to the Trustee's request, a continued Status Conference shall be held on **April 14, 2020, at 10:00 a.m.**
- 2) The Trustee shall file a Status Report by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Fu Kong Inc.**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lung Hsiang Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17990 OBI Probiotic Soda LLC**

**Chapter 7**

Adv#: 2:19-01059 OBI Acquisition, LLC, a Delaware limited liability v. Stepper et al

**#31.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01059. Notice of Removal to United States Bankruptcy Court of Litigation Pending in Los Angeles County Superior Court filed by David M. Goodrich, Chapter 7 Trustee for OBI Probiotic Soda, LLC by OBI Acquisition, LLC, a Delaware limited liability company. (Attachments: # 1 Appendix Adversary Cover Sheet # 2 Appendix Notice of Status Conference on Removal of Action) Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Bagdanov, Jessica) WARNING: See entry [2] for corrective action. Attorney to file copy of State Court complaint. Modified on 3/4/2019 (Lomeli, Lydia R.).

fr: 4-16-19; 7-16-19; 10-15-19

Docket 1

**Tentative Ruling:**

1/13/2020

Hearing VACATED. An order dismissing this adversary proceeding was entered on January 7, 2020. Doc. No. 35.

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

OBI Probiotic Soda LLC	Pro Se
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**Defendant(s):**

Daniel Stepper	Pro Se
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Dino Sarti	Pro Se
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L.A. Libations, LLC, a California	Pro Se
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Does 1-100 Inclusive	Pro Se
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OBI Probiotic Soda, LLC, a	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... OBI Probiotic Soda LLC**

**Chapter 7**

**Plaintiff(s):**

OBI Acquisition, LLC, a Delaware

Represented By  
Kevin M Yopp

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Steven T Gubner  
Jessica L Bagdanov

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17990 OBI Probiotic Soda LLC**

**Chapter 7**

Adv#: 2:19-01097 Goodrich v. Phillips et al

**#32.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01097. Complaint by David M Goodrich against Paul Phillips, Jeff Bonyun, Scott Strasser, Soames Floweree, Eion Hu, Yongjae Kim, Kevin Barenblat, Jeffrey Rhodes, OBI Acquisition, LLC, a Delaware limited liability company, OBI Soda, LLC, a Delaware limited liability company, MB Growth Advisors Corporation, a Nevada corporation. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(81 (Subordination of claim or interest)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Bagdanov, Jessica)

FR. 6-11-19; 7-16-19; 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 1-9-20**

**Tentative Ruling:**

- NONE LISTED -

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

OBI Probiotic Soda LLC	Pro Se
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**Defendant(s):**

Paul Phillips	Pro Se
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Jeff Bonyun	Pro Se
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Scott Strasser	Pro Se
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Soames Floweree	Pro Se
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Eion Hu	Pro Se
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Yongjae Kim	Pro Se
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Kevin Barenblat	Pro Se
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**United States Bankruptcy Court  
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**CONT... OBI Probiotic Soda LLC**

**Chapter 7**

Jeffrey Rhodes Pro Se

OBI Acquisition, LLC, a Delaware Pro Se

OBI Soda, LLC, a Delaware limited Pro Se

MB Growth Advisors Corporation, a Pro Se

DOES 1-25 Pro Se

**Plaintiff(s):**

David M Goodrich

Represented By  
Jessica L Bagdanov

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Steven T Gubner  
Jessica L Bagdanov

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**2:18-24265 Neilla M Cenci**

**Chapter 7**

Adv#: 2:19-01065 BALL C M, Inc. v. Cenci et al

**#33.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01065. Complaint by BALL C M, Inc. against Neilla M Cenci. 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)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Slates, Ronald)

FR. 5-14-19; 8-13-19

Docket 1

**Tentative Ruling:**

1/13/2020

On June 28, 2019, the Clerk of the Court entered Defendant's default. On July 16, 2019, the Court granted Plaintiff relief from the automatic stay, to enable Plaintiff to continue litigating the underlying State Court Action through which Plaintiff intends to establish the indebtedness alleged to be non-dischargeable. Plaintiff has represented that a judgment in the State Court Action will assist Plaintiff in presenting a Motion for Default Judgment to this Court. Litigation of the State Court Action remains ongoing.

Having reviewed Plaintiff's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall take place on **July 14, 2020, at 10:00 a.m.**
- 2) By no later than fourteen days prior to the hearing, Plaintiff shall file a Unilateral Status Report, which shall discuss the status of the State Court Action.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you

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**CONT... Neilla M Cenci**

**Chapter 7**

intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Neilla M Cenci

Represented By  
James R Selth

**Defendant(s):**

Neilla M Cenci

Pro Se

DOES 1 through 100, inclusive

Pro Se

**Plaintiff(s):**

BALL C M, Inc.

Represented By  
Ronald P Slates

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01111 Danny's Silver Jewelry Inc., a California cor v. Zendedel

**#34.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01111. Complaint by Danny's Silver Jewelry Inc., a California corporation, dba Danny's Silver, Inc., dba Danny's Silver & Gold against Bahram Zendedel. 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)) (Tabibi, Nico)

fr: 8-13-19; 10-15-19

Docket 1

**Tentative Ruling:**

1/13/2020

The parties have reached a settlement in principle. In the Court's experience, maintaining litigation deadlines is the best means of facilitating settlement.

Accordingly, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by way of the *Order (1) Setting Litigation Deadlines and (2) Setting Continued Status Conference for October 15, 2019 at 10:00 a.m.* [Doc. No. 12], issued on August 27, 2019, shall remain in effect.
- 2) A continued Status Conference shall be held on **March 10, 2020, at 10:00 a.m.** A Joint Status Report, which should discuss the status of settlement negotiations, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear,**



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**CONT... Bahram Zendedel**

**Chapter 7**

**please first contact opposing counsel to inform them of your intention to do so.**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Danny's Silver Jewelry Inc., a

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01114 Chady v. Zendedel

**#35.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01114. Complaint by Cyrus Chady, Bahram Zendedel against Bahram Zendedel. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Uyeda, James)

fr: 8-13-19

Docket 1

**Tentative Ruling:**

1/13/2020

On February 26, 2019, the Court granted Plaintiff relief from the automatic stay, to enable Plaintiff to prosecute against Defendant two actions pending in the Los Angeles Superior Court (the "State Court Actions"). Plaintiff seeks to establish the indebtedness which is alleged to be non-dischargeable in this proceeding by way of the State Court Actions. On June 18, 2019, the Court granted Plaintiff's motion to abstain from adjudicating this dischargeability action until Plaintiff had obtained final, non-appealable judgments in the State Court Actions. Final judgment has not yet been entered in both of the State Court Actions.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall take place on **May 12, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which should discuss the status of the State Court Actions, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel

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**CONT... Bahram Zendedel**

**Chapter 7**

Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Cyrus Chady

Represented By  
James S Uyeda

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01453 Mastan (TR) v. Zendedel

**#36.00** Status HearingRE: [1] Adversary case 2:19-ap-01453. Complaint by Peter J. Mastan (TR) against Nazila Zendedel. (Charge To Estate). Complaint for: (1) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.07]; (2) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.05, 3439.07]; (3) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (4) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (5) Turnover of Property [11 U.S.C. § 362] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)),(91 (Declaratory judgment)) (Mang, Tinho)

Docket 1

**Tentative Ruling:**

1/13/2020

Having reviewed the Unilateral Status Report submitted by the Chapter 7 Trustee, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **2/13/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **5/26/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **6/25/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **7/14/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not

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**Bahram Zendedel**

**Chapter 7**

- available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **7/21/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **7/25/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **8/11/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of

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**Bahram Zendedel**

**Chapter 7**

Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **8/24/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**CONT... Bahram Zendedel**

**Chapter 7**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Nazila Zendedel

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

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**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#37.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

fr. 7-16-19; 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

7/15/2019

Having reviewed the Joint Status Report submitted by the parties, the Court

**HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **October 15, 2019, at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.
- 2) In view of the parties' request that the matter not be ordered to mediation until after the completion of discovery, the Court will not order mediation at this time. The Court will most likely order the matter to formal mediation at the October 15, 2019 Status Conference.
- 3) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **8/15/2019**.
  - b) The last day to disclose expert witnesses and expert witness reports is **11/26/2019**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **12/26/2019**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **1/14/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert



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**John F Gallardo**

**Chapter 7**

- discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **1/21/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **1/25/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **2/11/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points

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**John F Gallardo**

**Chapter 7**

and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(3)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(3)(h)(ii), and shall be filed by the deadline specified in ¶(3)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **2/24/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

The Court will prepare and enter a Scheduling Order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

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**CONT... John F Gallardo**  
Mary Gallardo

Pro Se

**Chapter 7**

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

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**2:19-14528 Allen Joseph MacQuarrie**

**Chapter 7**

Adv#: 2:19-01144 Borish et al v. Tabingo et al

**#38.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01144. Complaint by Stephen & Ami Borish against Allen Joseph MacQuarrie. (d),(e)),(14 (Recovery of money/property - other)),(62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Bonar, Roxanne)

fr: 8-13-19; 9-24-19

Docket 1

**Tentative Ruling:**

1/13/2020

On September 27, 2019, the Court entered an order lifting the automatic stay to enable Plaintiffs to prosecute a state court action (the "State Court Action") in which Plaintiffs seek to establish the indebtedness that is alleged to be non-dischargeable in this action. Bankr. Doc. No. 28 (the "RFS Order").

Plaintiffs have obtained a default judgment against the Defendant in the State Court Action (the "Default Judgment") and are prepared to adjudicate the non-dischargeability of the Default Judgment.

Based upon the foregoing, the Court **HEREBY FINDS AND ORDERS AS FOLLOWS:**

- 1) Plaintiffs obtained the Default Judgment on August 19, 2019, before the Court lifted the stay to enable Plaintiffs to prosecute the State Court Action. Unless Defendant files a written objection by no later than **January 28, 2020**, the Court will retroactively annul the stay so that the Default Judgment remains valid. (The RFS Order did not retroactively annul the stay.) In determining whether retroactive annulment is appropriate, courts apply a "balancing of the equities' test." *Fjeldsted v. Curry (In re Fjeldsted)*, 293 B.R. 12, 24 (B.A.P. 9th Cir. 2003). The Court is prepared to find that retroactive annulment is appropriate here because the Court lifted the stay on its own motion for the

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**Allen Joseph MacQuarrie**

**Chapter 7**

purpose of streamlining the adjudication of this action. In the event Defendant files a written objection, the Court will determine whether a hearing is required and will notify the parties accordingly.

- 2) Because litigation of this action has been delayed by proceedings associated with the RFS Order, the litigation deadlines previously ordered are extended, as follows:
  - a) The last day to amend pleadings and/or join other parties is **2/13/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **5/26/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **6/25/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **7/14/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **7/21/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **7/25/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **8/11/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b),

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CONT...

**Allen Joseph MacQuarrie**

**Chapter 7**

the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:

- i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
  - iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **8/24/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
  - 3) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program;

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**Allen Joseph MacQuarrie**

**Chapter 7**

[Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a (1) Scheduling Order and (2) an order providing that the stay will be retroactively annulled unless Defendant files a written objection by no later than **January 28, 2020**. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Allen Joseph MacQuarrie

Represented By  
Shawn P Huston

**Defendant(s):**

Celgine Tabingo

Pro Se

Clarke Miller

Pro Se

KarmaBox Vending

Pro Se

MyKarmabox.com

Pro Se

Urban Vendor, Inc

Pro Se

Does 1 Through 20, Inclusive

Pro Se

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**CONT... Allen Joseph MacQuarrie**

**Chapter 7**

Allan J Macquarrie

Pro Se

**Plaintiff(s):**

Stephen Borish

Pro Se

Ami Borish

Pro Se

**Trustee(s):**

Timothy Yoo (TR)

Pro Se



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10:00 AM

**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#39.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01423. Complaint by Miguel Hernandez Cruz against Shamim Ahemmed. willful and malicious injury)) (Berke, Michael)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Pro Se

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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10:00 AM

**2:19-18227 Albert Edward Connie**

**Chapter 7**

Adv#: 2:19-01447      Johnston v. Connie

**#40.00** Status Hearing RE: [1] Adversary case 2:19-ap-01447. Complaint by Cindy Johnston against Albert Edward Connie. (Charge To Estate). (Attachments: # 1 Exhibit A-G In Support of Complaint To Determine Dischargeability of Debt [11 U.S.C. 523(a)(2)(a), (4), (6) # 2 Supplement Proof of Service of Documents) 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)) (Malczynski, Matthew)

Docket      1

**Tentative Ruling:**

1/13/2020

Having reviewed the Unilateral Status Reports submitted by both parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **2/13/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **5/26/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **6/25/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **7/14/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **7/21/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for

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**Albert Edward Connie**

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- dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **7/25/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **8/11/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
    - iii) The failure of a party to file a Motion in Limine complying with the

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CONT...

**Albert Edward Connie**

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requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.

iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.

i) Trial is set for the week of **8/24/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Albert Edward Connie

Pro Se

**Defendant(s):**

Albert Edward Connie

Pro Se

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**CONT... Albert Edward Connie**

**Chapter 7**

**Joint Debtor(s):**

Sally Ann Connie

Pro Se

**Plaintiff(s):**

Cindy Johnston

Represented By  
Matthew Malczynski

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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**2:19-20888 Venustiano Lopez Carranza**

**Chapter 7**

Adv#: 2:19-01460 Pringle v. Carranza et al

**#41.00** Status Hearing  
RE: [1] Adversary case 2:19-ap-01460. Complaint by John P. Pringle against Venustiano Lopez Carranza, Patricia Hernandez, Jessey Carranza, Wendy J. Flores, Raul Hernandez. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Marchisotto, Michelle)

Docket 1

\*\*\* VACATED \*\*\* REASON: DISMISSED 12/5/19

**Tentative Ruling:**

- NONE LISTED -

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

Venustiano Lopez Carranza	Represented By Erika Luna
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**Defendant(s):**

Venustiano Lopez Carranza	Pro Se
Patricia Hernandez	Pro Se
Jessey Carranza	Pro Se
Wendy J. Flores	Pro Se
Raul Hernandez	Pro Se

**Joint Debtor(s):**

Patricia Hernandez	Represented By Erika Luna
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**Plaintiff(s):**

John P. Pringle	Represented By
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10:00 AM

**CONT... Venustiano Lopez Carranza**

Michelle A Marchisotto

**Chapter 7**

**Trustee(s):**

John P Pringle (TR)

Represented By  
Michelle A Marchisotto

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**2:18-18022 Andrew's & Son Tradings Inc.**

**Chapter 11**

**#42.00** Hearing  
RE: [97] Post Status conference re Confirmation of chapter 11 Plan  
fr. 4-9-19; 6-19-19; 9-18-19

Docket 97

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-9-20**

**Tentative Ruling:**

9/16/2019

For the reasons set forth below, the Plan is CONFIRMED.

**Pleadings Filed and Reviewed**

1. Second Amended Chapter 11 Plan of Reorganization [Doc. No. 106] (the "Plan")
2. Second Amended Disclosure Statement Describing Second Amended Chapter 11 Plan of Reorganization [Doc. No. 107]
3. Order Granting Debtor's Motion for Approval of Adequacy of Debtor's First Amended Disclosure Statement Describing First Amended Chapter 11 Plan of Liquidation [Doc. No. 111]
4. Stipulation by Ally Financial Inc. and Andrew's & Sons Tradings, Inc. for Adequate Protection 362 Stay Resolving Motion for Relief from Automatic Stay, for Adequate Protection and Plan Treatment on Lien Secured by Ford Truck F650 [Doc. No. 72]
5. Order: (1) Approving Adequate Protection Stipulation and (2) Vacating Hearing on Motion for Relief From the Automatic Stay [Doc. No. 74]
6. Stipulation by Andrew's & Son Trading Inc. and Stipulation for Adequate Protection and Plan Treatment of Proof of Claim 5 Regarding Tesla Model S and Resolution of Motion for Relief From the Automatic Stay (Personal Property) Between Debtor and JPMorgan Chase Bank, N.A. [Doc. No. 79]
7. Order Granting Motion for Relief From the Automatic Stay Personal Property (Between Debtor and JP Morgan Chase Bank, N.A.) [Doc. No. 81]
8. Stipulation Between Debtor and First General Bank Re: Plan Treatment of Proof of Claim Numbers 10 and 11 [Doc. No. 109]
9. Order Stipulation Between Debtor and First General Bank Re: Plan Treatment of



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**Chapter 11**

- Proof of Claim Numbers 10 and 11 [Doc. No. 112]
10. Debtor's Notice of: (1) Deadline to Return Ballots; and (2) Hearing on Motion Regarding Confirmation of Debtor's Second Amended Chapter 11 Plan of Reorganization [Doc. No. 113]
  11. Proof of Service [Doc. No. 114]
  12. Plan Ballot Summary [Doc. 118]
  13. Notice of Motion and Motion for Confirmation of Debtor's Second Amended Chapter 11 Plan of Reorganization Filed as of April 16, 2019 [Doc. 119]
  14. Scheduling Order Regarding Motion for Confirmation of Debtor's Second Amended Chapter 11 Plan of Reorganization. [Doc. No. 126] (the "Scheduling Order")
  15. Plan Ballot Summary (Regarding Second Amended Chapter 11 Plan) [Doc. 130]
  16. Status Report in Support of Motion for Confirmation of Debtor's Second Amended Chapter 11 Plan of Reorganization filed as of April 16, 2019. [Doc. No. 131] (the "Supplemental Status Report")
  17. As of the preparation of this tentative ruling, no opposition has been filed.

## **I. Facts and Summary of Pleadings**

Debtor-in-possession, Andrew's & Sons Tradings, Inc. dba Beston Shoes (the "Debtor"), filed this voluntary chapter 11 case on July 13, 2018 (the "Petition Date"). On June 27, 2019, the Court issued the Scheduling Order continuing the confirmation hearing. *See* Doc. No. 126. The Court further directed the Debtor to reopen voting for certain non-voting classes, with supplemental notice to the affected creditors. *See id.* The supplemental notice had to unambiguously inform creditors that the deadline to submit a ballot had been extended to July 26, 2019, and that failure to timely cast a vote would be deemed acceptance of the Plan. *See id.* The Debtor complied with the directive, timely filing proof of service evidencing supplemental notice to such classes. *See* Doc. No. 125. On August 19, 2019, the Debtor filed a Plan Ballot Summary, indicating that only one of the non-voting classes had submitted a vote in the interim. *See* Doc. No. 130. Having reviewed the Supplemental Status Report, the Court finds it appropriate to CONFIRM the Plan.

### **Summary of the Plan**

*Class 1 – First General Bank – Accepts the Plan*

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Class 1 consists of the secured claim of First General Bank ("Loan 1"). First General Bank ("FGB") holds a first-priority blanket security lien against the Debtor's assets, which secures debt in the amount of \$110,894.08. The Debtor proposes to pay FGB in full, plus 7.25% interest, by making monthly payments of \$1,155.25 for a period of twelve years. FGB will retain its lien until paid in full.

FGB's claim is impaired and it voted to accept the Plan.

*Class 2 – FGB – Accepts the Plan*

Class 2 consists of the secured claim of FGB ("Loan 2"). FGB holds a second-priority blanket security lien against the Debtor's assets, which secures debt in the amount of \$73,991.14. The Debtor proposes to pay FGB in full, plus 7.25% interest, by making monthly payments of \$863.40 for a period of ten years. FGB will retain its lien until paid in full.

FGB's claim is impaired and it voted to accept the Plan.

*Class 3 – Amazon Capital Services, Inc. – Deemed to Accept the Plan (No Ballot Cast Following Supplemental Notice)*

Class 3 consists of the secured claim of Amazon Capital Services, Inc. ("ACS"). ACS holds a third-priority blanket security lien against the Debtor's assets, which secures debt in the amount of \$477,488.27. The Debtor proposes to pay ACS in full, plus 5% interest, by making monthly payments of \$4,416 for a period of twelve years. ACS will retain its lien until paid in full.

ACS's claim is impaired and ACS was entitled to vote on the Plan, but did not cast a ballot. ACS did not cast a ballot even after further notice that voting had been reopened as to Class 3.

*Class 4 – Kings Cash Group – Deemed to Accept the Plan (No Ballot Cast Following Supplemental Notice)*

Class 4 consists of the secured claim of Kings Cash Group ("KCG"). KCG holds a fourth priority blanket security lien against the Debtor's assets, which secures debt in the amount of \$249,512.85. The Debtor proposes to treat KCG's claim as entirely unsecured and to pay KCG pursuant to the proposed terms of repayment for other general unsecured creditors in Class 9. KCG's lien will be avoided upon confirmation

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of the Plan pursuant to § 1141(c).

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KCG's claim is impaired and KCG was entitled to vote on the Plan, but did not cast a ballot. KCG did not cast a ballot even after further notice that voting had been reopened as to Class 4.

*Class 5 – EBF Partners, LLC dba Everest Business Funding and Corporation Services Company – Accepts the Plan*

Class 5 consists of the secured claim of EBF Partners, LLC dba Everest Business Funding and Corporation Service Company ("EBF"). EBF holds a fifth priority blanket security lien against the Debtor's assets, which secures debt in the amount of \$246,734.40. The Debtor proposes to treat EBF's claim as entirely unsecured and to pay EBF pursuant to the proposed terms of repayment for other general unsecured creditors in Class 9. EBF's lien will be avoided upon confirmation of the Plan pursuant to § 1141(c).

EBF's claim is impaired and while EBF failed to previously cast a ballot, it voted to accept the Plan following additional notice that voting reopened as to Class 5.

*Class 6 – Ally Financial – Accepts the Plan*

Class 6 consists of the secured claim of Ally Financial ("Ally"). Ally holds a secured lien against the Debtor's 2011 Ford Truck F650, which secures debt in the amount of \$20,178.97. On or about November 20, 2018, the Debtor entered into an adequate protection stipulation with Ally [See Doc. Nos. 72, 74]. The Debtor proposes to pay Ally in full, plus 5.5% interest, by making monthly payments of \$490 through November 1, 2022 or until the claim is paid in full. Ally will retain its lien until paid in full.

Ally's claim is impaired and it voted to accept the Plan.

*Class 7 – JP Morgan Chase Bank, N.A. – Accepts the Plan*

Class 7 consists of the secured claim of JP Morgan Chase Bank, N.A. ("Chase"). Chase holds a secured lien against the Debtor's 2015 Tesla Model S, which secures debt in the amount of \$47,414.57. On or about January 7, 2019, the Debtor entered into an adequate protection stipulation with Chase [See Doc. Nos. 79, 81]. The Debtor proposes to pay Chase in full, plus 5% interest, by making monthly payments

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of \$895 for a period of 60 months, or until the claim is paid in full. Chase will retain its lien until paid in full.

Chase's claim is impaired and it voted to accept the Plan.

*Class 8 – Hong Kong Motors – Deemed to Accept the Plan (No Ballot Cast Following Supplemental Notice)*

Class 8 consists of the secured claim of Hong Kong Motors ("HKM"). HKM holds a secured lien against the Debtor's 2007 Nissan Altima, which secures debt in the amount of \$4,500. The Debtor proposes to bifurcate HKM's claim into a secured claim of \$2,835 (which the Debtor states is the current value of the collateral) and an unsecured claim of \$1,665. The Debtor proposes to pay HKM's secured claim in full, plus 5% interest, by making monthly payments of \$53 for a period of 60 months. HKM will retain its lien, up to the value of the collateral, until the secured portion of its claim is paid in full. The Debtor proposes to pay HKM's unsecured claim pursuant to the proposed terms of repayment for other general unsecured creditors in Class 9.

HKM's claim is impaired and HKM was entitled to vote on the Plan, but did not cast a ballot. HKM did not cast a ballot even after further notice that voting had been reopened as to Class 8.

*Class 8(b) – New Commercial Capital – Deemed to Reject the Plan*

Class 8(b) consists of the secured claim of New Commercial Capital ("NCC"). NCC has not filed a proof of claim in this case but recorded a UCC against the Debtor. The Debtor disputes that NCC holds a valid lien or is entitled to any distribution under the Debtor's Plan. To the extent NCC has a lien against any of the Debtor's assets, the Debtor proposes to strip NCC's lien as of the Effective Date.

NCC will not be paid anything under the Debtor's Plan, so it is deemed to have rejected the Plan pursuant to § 1126(g).

*Class 8(c) – Corporation Service Company as Representative – Deemed to Reject the Plan*

Class 8(c) consists of the secured claim of Corporation Service Company as Representative ("CSC"). CSC has not filed a proof of claim in this case but recorded

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a UCC against the Debtor. The Debtor disputes that CSC holds a valid lien or is entitled to any distribution under the Debtor's Plan. To the extent that CSC has a lien against any of the Debtor's assets, the Debtor proposes to strip CSC's lien as of the Effective Date.

CSC will not be paid anything under the Debtor's Plan, so it is deemed to have rejected the Plan pursuant to § 1126(g).

*Class 8(d) – Bank of the West – Deemed to Reject the Plan*

Class 8(d) consists of the secured claim of Bank of the West ("BoW"). BoW has not filed a proof of claim in this case but recorded a UCC against the Debtor. The Debtor disputes that BoW holds a valid lien or is entitled to any distribution under the Debtor's Plan. To the extent that BoW has a valid lien against any of the Debtor's assets, the Debtor proposes to strip BoW's lien as of the Effective Date.

BoW will not be paid anything under the Debtor's Plan, so it is deemed to have rejected the Plan pursuant to § 1126(g).

*Class 8(e) – Employment Development Department – Unimpaired (Deemed to Accept)*

Class 8(e) consisted of the secured claim of Employment Development Department ("EDD"). EDD filed a proof of claim asserting entitlement to a distribution of \$47.18. The Debtor has already paid EDD's claim in full.

Accordingly, EDD is not impaired, was not entitled to vote, and is deemed to accept the Plan.

*Class 9 – General Unsecured Claims – Accepts the Plan*

Class 9 consists of general unsecured claims ("GUC") totaling \$2,377,121. The Debtor proposes to pay \$47,542.42, which represents approximately 2% of the total GUC claims, by making pro rata monthly payments of \$792.37 for a period of five years.

Class 9 is impaired and has voted to accept the Plan.

*Class 10 – Equity Interests – Unimpaired (Deemed to Accept)*

Class 10 consists of Jiazheng Lu's 100% equity interest in the Debtor. Mr. Lu is

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an insider. Under the Plan, Mr. Lu will retain 100% of his ownership interest in the Debtor.

Mr. Lu's claim is not impaired and he was not entitled to vote on the Plan.

The Debtor estimates that it will have approximately \$60,622.83 in administrative claims on the Effective Date and submits that it has sufficient cash on hand to pay all allowed administrative claims in full as required.

As of the date of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

As set forth below, the Court finds that the Plan complies with all applicable provisions of § 1129. The plan is confirmed.

### **SECTION 1129(a)(1)**

Section 1129(a)(1) requires that the "plan compl[y] with the applicable provisions of this title." According to the leading treatise, the "legislative history suggests that the applicable provisions are those governing the plan's internal structure and drafting: 'Paragraph (1) requires that the plan comply with the applicable provisions of chapter 11, such as section 1122 and 1123, governing classification and contents of a plan.'" *Collier on Bankruptcy* ¶ 1129.01[1] (16th rev'd ed.) (citing S. Rep. No. 989, 95th Cong., 2d Sess. 126 (1978)).

#### 1. Section 1122(a)

Section 1122(a) provides that "a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class."

The Plan's classification structure complies with § 1122(a).

#### 2. Section 1122(b)

Section 1122(b) provides that "a plan may designate a separate class of claims consisting only of every unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience."

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The Plan does not contain any convenience classes. Section 1122(b) does not apply.

3. Section 1123(a)(1)

Section 1123(a)(1) requires that a plan "designate ... classes of claims, other than claims of a kind specified in section 507(a)(2) [administrative expense claims], 507(a)(3) [claims arising during the gap period in an involuntary case], or 507(a)(8) [priority tax claims], and classes of interest."

There are no involuntary gap claims because this is a voluntary chapter 11 case. The Plan provides that the Debtor does not have any priority tax claims. In addition, the Plan appropriately classifies administrative expense claims. The Plan satisfies § 1123(a)(1).

4. Section 1123(a)(2)

Section 1123(a)(2) requires that the Plan "specify any class of claims or interests that is not impaired under the Plan."

The Plan specifies that only Classes 8(e) and 10 are unimpaired. The Plan satisfies § 1123(a)(2).

5. Section 1123(a)(3)

Section 1123(a)(3) requires that the Plan "specify the treatment of any class of claims or interests that is impaired under the Plan."

The Plan specifies the treatment afforded to each impaired class—Classes 1 – 8(d) and 9. The Plan satisfies § 1123(a)(3).

6. Section 1123(a)(4)

Section 1123(a)(4) requires that the Plan "provide the same treatment for each claim or interest of a particular class unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest."

The Court previously determined that Classes 1 – 3 were similarly situated

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secured creditors, but the Plan treated Class 3 differently to the extent a lower rate of interest was offered to Class 3 than Classes 1 and 2. *See* Doc. No. 126. However, as ACS, the claimant in Class 3, failed to submit a ballot following renewed notice, ACS is deemed to accept the Plan. The Plan satisfies § 1123(a)(4).

7. Section 1123(a)(5)

Section 1123(a)(5) requires that the Plan "provide adequate means for the plan's implementation."

The Plan will be funded by income generated by Debtor's pre- and post-confirmation business operations. The Plan Proponent anticipates Debtor having approximately \$63,341.94 of cash on hand on the Effective Date of the Plan to pay effective date payments of approximately \$45,619.62. *See* Second Amended Disclosure Statement. **[Note 1]**

In support, the Plan Proponent submitted the following evidence of Debtor's ability to adequately implement the Plan: 1) historical financial statements for the years 2015, 2016, and 2017 (Disclosure Statement, Exhibit B(3)), 2) Debtor's post-petition income and expenses from July 1, 2018 through January 31, 2019 (Disclosure Statement, Exhibit B(4)), and 3) financial projections for the anticipated duration of the Plan (Disclosure Statement, Exhibit B(5)). Total monthly payments under the plan equal \$8,688.37, and as Debtor's financial projections demonstrate, Debtor will have an average monthly net income of \$8,695 for the duration of the Plan. The proposed funding sources provide an adequate means for the Plan's implementation. The Plan satisfies § 1123(a)(5).

8. Section 1123(a)(6)

Section 1123(a)(6) provides: "[A] plan shall provide for the inclusion in the charter of the debtor, if the debtor is a corporation ..., of a provision prohibiting the issuance of nonvoting equity securities, and providing, as to the several classes of securities possessing voting power, an appropriate distribution of such power among such classes, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for the election of directors representing such preferred class in the event of default in the payment of such dividends."



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Debtor's Confirmation Brief affirms that the Confirmation Order will contain a provision amending the Debtor's charter to include the requisite language set forth above. The Plan will satisfy § 1123(a)(6) through the proposed inclusion language within the Confirmation Order.

9. Section 1123(a)(7)

Section 1123(a)(7) requires that the Plan's provisions with respect to the selection of officers and directors be consistent with public policy and the interests of creditors and equity security holders.

The Reorganized Debtor will continue to be managed by the sole shareholder and President, Jiazheng Lu. The Plan will not change or select any officer, director, or trustee. The Plan satisfies § 1123(a)(7).

10. Section 1123(a)(8)

Section 1123(a)(8), which imposes certain requirements upon individual debtors, does not apply.

**SECTION 1129(a)(2)**

Section 1129(a)(2) requires that the "proponent of the plan compl[y] with the applicable provisions of this title." The Court finds that the Plan Proponent has:

- 1) Obtained Court approval of a Disclosure Statement in accordance with § 1125 (*see* "Order Approving Disclosure Statement and Setting Hearing on Confirmation of Plan" [Doc. No. 111]);
- 2) Obtained Court approval of the employment of professional persons (*see* "Order Granting Application to Employ Steven P. Chang, Law Offices of Langley & Chang" [Doc. No. 53]); and
- 3) Filed monthly operating reports.

Accordingly, the Plan Proponent have satisfied the requirements of § 1129(a)(2).

**SECTION 1129(a)(3)**

Section 1129(a)(3) requires that the "plan has been proposed in good faith and not by any means forbidden by law." As one court has explained:

The term 'good faith' in the context of 11 U.S.C. § 1129(a)(3) is not statutorily defined but has been interpreted by case law as referring to a

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plan that 'achieves a result consistent with the objectives and purposes of the Code.' 'The requisite good faith determination is based on the totality of the circumstances.'

*In re Melcher*, 329 B.R. 865, 876 (Bankr. N.D. Cal. 2005) (internal citations omitted).

The Plan seeks objectives that are consistent with those of the Bankruptcy Code and the Plan Proponent has complied with the requirements of the Code throughout this case. Under Fed. R. Bankr. P. 3015(f), the Court is not required to receive evidence as to good faith because no party has objected to confirmation. Section 1129(a)(3) is satisfied.

**SECTION 1129(a)(4)**

Section 1129(a)(4) requires that "[a]ny payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable."

The Plan provides that payment of all professional fees is subject to review by the Court. The plan satisfies § 1129(a)(4).

**SECTION 1129(a)(5)**

Section 1129(a)(5) requires that the Plan disclose "the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint Plan with the debtor, or a successor to the debtor under the Plan." Section 1129(a)(5)(A)(ii) requires that the appointment to or continuation in office of a director or officer be consistent with the interests of creditors, equity security holders, and public policy. Section 1129(a)(5)(B) requires the Plan proponent to disclose the identity of any insider to be employed by the reorganized debtor.

The Plan discloses that Mr. Lu, an insider, will remain as sole shareholder and President. In addition, the Debtor delivered Insider Compensation notices on July 18, 2018, which were not opposed. The Declaration by Jiazheng Lu (the "Lu Declaration") filed in support of the Plan and Disclosure Statement further attests to the identity and role of Mr. Lu as insider, as well as his post-confirmation equity

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interests. The Plan satisfies § 1129(a)(5).

**SECTION 1129(a)(6)**

Section 1129(a)(6), which requires that a governmental regulatory commission with jurisdiction over rates charged by a debtor approve any rate changes provided for in the plan, does not apply.

**SECTION 1129(a)(7)**

Section 1129(a)(7), known as the "best interests of creditors test," provides in relevant part: "With respect to each impaired class of claims or interests, each holder of a claim or interest of such class has accepted the plan; or will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date."

Classes 8(e) and 10 are unimpaired and are deemed to have accepted the Plan. Classes 1 – 8 and 9 have either accepted the Plan or are deemed to have accepted the Plan. *See* Plan Ballot Summary (regarding Second Amended Chapter 11 Plan) [Doc. No. 130]. Classes 8(b), 8(c), and 8(d) are impaired, but did not file a proof of claim in this case. These claims are subject to cram down under § 1129(b). As discussed below, the requirements of § 1129(b) have been satisfied with respect to Classes 8(b), 8(c), and 8(d). The Plan satisfies § 1129(a)(7).

**SECTION 1129(a)(8)**

Section 1129(a)(8) requires each class to accept the Plan, unless the class is not impaired.

Classes 8(e) and 10 are unimpaired and are deemed to have accepted the Plan. Classes 1 – 8 and 9 have either accepted the Plan or are deemed to have accepted the Plan. *See* Plan Ballot Summary (regarding Second Amended Chapter 11 Plan) [Doc. No. 130]. Except for such classes subject to § 1129(b), Section 1129(a)(8) is satisfied because all classes of creditors have either accepted the Plan or were deemed to have accepted the Plan.

**SECTION 1129(a)(9)**

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Section 1129(a)(9) requires that holders of certain administrative and priority claims receive cash equal to the allowed claim amount of their claims on the effective date of the plan, unless the claimant agrees to different treatment.

The Plan provides for the payment of all outstanding allowed administrative claims in full as soon as the fees are approved by the Court and none of the professionals have requested a different payment arrangement. The Plan also provides for payment of priority tax claims in a manner consistent with § 1129(a)(9)(C). The Plan satisfies § 1129(a)(9).

**SECTION 1129(a)(10)**

Section 1129(a)(10) requires that "at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider."

Classes 1, 2, 5, 6, 7, and 9 are impaired, do not consist of insiders, and have accepted the Plan. Section 1129(a)(10) is satisfied.

**SECTION 1129(a)(11)**

Section 1129(a)(11), known as the "feasibility requirement," requires the Court to find that "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan."

The Debtor has sufficient cash on hand to pay the amounts that are due on the Effective Date. Based upon its review of the balance sheets, budget projections, and the Lu Declaration included with the Disclosure Statement, the Court finds that confirmation is not likely to be followed by liquidation or the need for further financial reorganization. The Plan is feasible and satisfies § 1129(a)(11).

**SECTION 1129(a)(12)**

Section 1129(a)(12) requires that the Debtor pay all United States Trustee fees prior to confirmation or provide for payment of those fees on the effective date.

To the Court's knowledge, UST fees are current. To the extent any fees are

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outstanding, the Plan provides that all such fees will be paid by the Effective Date. Section 1129(a)(12) is satisfied.

**SECTION 1129(a)(13)**

Section 1129(a)(13), which contains requirements pertaining to the payment of retirement benefits, does not apply.

**SECTION 1129(a)(14)**

Section 1129(a)(14), which contains requirements pertaining to the payment of domestic support obligations, does not apply.

**SECTION 1129(a)(15)**

Section 1129(a)(15), which imposes certain requirements upon individual debtors, does not apply.

**SECTION 1129(a)(16)**

Section 1129(a)(16) provides: "All transfers of property under the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust."

The Plan does not provide for the transfer of any property. The Plan satisfies § 1129(a)(16).

**SECTION 1129(b)**

The Plan provides for no payment to Classes 8(b), (c), and (d) ("Classes 8(b)-(d)"), and further provides for the avoidance of the liens asserted by the claimants in these classes. Pursuant to § 1126(g), Classes 8(b)–(d) are deemed to reject the Plan.

Where certain classes are deemed to reject a plan, the plan may still be confirmed "if the plan does not discriminate unfairly, and is fair and equitable" with respect to the rejecting classes. § 1129(b)(1).

Section 1129(b)(2)(A) provides that a plan is "fair and equitable" with respect to a class of secured claims if the plan provides one of the following types of treatment:

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- (i)(I) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and
- (II) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;
  
- (ii) for the sale, subject to section 363(k) of this title, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (i) or (iii) of this subparagraph; or
  
- (iii) for the realization by such holders of the indubitable equivalent of such claims.

The Debtor contends that there is no reason to believe that any monies are owed to the claimants in Classes 8(b)–(d), who all failed to file proofs of claim in this case.

The Court previously found that in order to obtain a distribution from the estate, the holders of claims in Classes 8(b)–(d) were required to file proofs of claim. *See* Ruling Continuing Confirmation Hearing [Doc. No. 123]. The Court reasoned that because the Debtor scheduled the claims in Classes 8(b)–(d) as "unknown," holders of claims in these classes were effectively on notice of the need to file proofs of claim in the event they wished to receive a distribution from the estate. The Court noted that Fed. R. Bankr. P. 3003(c)(2) requires a creditor holding a claim that is not scheduled or is scheduled as disputed, contingent, or unliquidated to file a proof of claim in order to be treated as a creditor for purposes of voting and distribution. The Court concluded that claimants scheduled as holding "unknown" claims, like claimants, are scheduled as holding disputed, contingent, or unliquidated claims, and required to file a proof of claim in order to be treated as a creditor for voting and distribution purposes.

Because the holders of claims in Classes 8(b)–(d) did not file proofs of claim,

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they do not hold allowed claims and are not entitled to receive a distribution from the estate. Under § 1129(b)(2)(A)(i)(I), Classes 8(b)–(d) are entitled to retain their liens, but only "to the extent of the allowed amount" of their claims. Since they did not hold allowed claims, the Plan's provision avoiding the liens of the claimants in Classes 8(b)–(d) is consistent with § 1129(b)(2)(A)(i)(I). The Plan also satisfies § 1129(b)(2)(A)(i)(II) with respect to these classes. As they do not hold allowed claims, it is not necessary for Classes 8(b)–(d) to receive any cash payments.

In sum, the "fair and equitable" requirement set forth in § 1129(b)(2) is satisfied with respect to Classes 8(b)–(d).

**SECTION 1129(c)**

Section 1129(c), which states that the court may confirm only one plan in a particular case, is satisfied.

**SECTION 1129(d)**

Section 1129(d) provides: "Notwithstanding any other provisions of this section, on request of a party in interest that is a governmental unit, the court may not confirm a Plan if the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933."

No governmental unit has requested that the court not confirm the Plan on the grounds that the Plan's purpose is the avoidance of taxes or application of section 5 of the Securities Act of 1944. The Plan satisfies § 1129(d).

**Post-Confirmation Status Conference**

A Post-Confirmation Status Conference shall be held on **January 14, 2020, at 10:00 a.m.** A Post-Confirmation Status Report shall be filed by no later than fourteen days prior to the hearing.

**Discharge**

Upon the Effective Date of the Plan (14 days after entry of the order confirming the Plan), the Clerk of the Court is directed to enter an order of discharge.

**III. Conclusion**

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For the reasons set forth above, the Plan is CONFIRMED.

The Debtor shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing. The confirmation order shall include a provision directing the Debtor to amend its charter with requisite language pursuant to §1123(a)(6).

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Court notes that cash Debtor possessed as of the end of April 30, 2019 equaled \$115,908.80 as represented in paragraph 6 of the Declaration of Jiazheng Lu. For the purposes of Section 1123(a)(5)'s feasibility analysis, the Court will proceed with the dollar amounts proffered in the Second Amended Disclosure Statement.

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

Andrew's & Son Tradings Inc.

Represented By

Christopher J Langley

Steven P Chang

David Samuel Shevitz



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**2:18-20698 United International Mortgage Solutions, Inc.**

**Chapter 11**

**#43.00** Order requiring debtor to Appear and Show Cause why this case should not be converted or dismissed

fr: 11-6-19

Docket 0

**Tentative Ruling:**

1/13/2020

No appearances required. This is a continued hearing on the Court's *Order Requiring Debtor to Appear and Show Cause Why This Case Should Not be Dismissed or Converted* [Doc. No. 126] (the "OSC"). The Court has reviewed the Debtor's *Status Report Re Continued Hearing on the OSC* (the "Status Report") [Doc. No. 149] and, based thereon, finds it appropriate to CONTINUE the OSC hearing to **March 11, 2020 at 10:00 a.m.** The Debtor shall file a written response apprising the Court of any developments concerning issues discussed in its Status Report by no later than February 28, 2020.

**Party Information**

**Debtor(s):**

United International Mortgage

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia

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**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01433 United International Mortgage Solutions, Inc. v. HERNDON et al

**#44.00** Status Hearing RE: [1] Adversary case 2:19-ap-01433. Complaint by United International Mortgage Solutions, Inc. against SHERWOOD HERNDON, an individual. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

Docket 1

**Tentative Ruling:**

1/13/2020

Default was entered against the Defendant on November 15, 2019. Doc. No. 14. Having reviewed Plaintiff's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") by no later than **February 14, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are VACATED.
- 3) A continued Status Conference shall be held on **April 14, 2020, at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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**CONT... United International Mortgage Solutions, Inc.**

**Chapter 11**

**Party Information**

**Debtor(s):**

United International Mortgage

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

**Defendant(s):**

SHERWOOD HERNDON

Pro Se

All Persons or Entities Unknown

Pro Se

DOES 1 to 100, inclusive

Pro Se

**Plaintiff(s):**

United International Mortgage

Represented By

Matthew D. Resnik

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**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01434 United International Mortgage Solutions, Inc. v. WALTER WALLACE, an

**#45.00** Status Hearing RE: [1] Adversary case 2:19-ap-01434. Complaint by United International Mortgage Solutions, Inc. against WALTER WALLACE, an individual, KENYATTA MONIFA, an individual. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)), (91 (Declaratory judgment)) (Resnik, Matthew)

Docket 1

**Tentative Ruling:**

1/13/2020

Default was entered against both Defendants on November 15, 2019. Doc. Nos. 18–19. Having reviewed Plaintiff’s Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") by no later than **February 14, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are **VACATED**.
- 3) A continued Status Conference shall be held on **April 14, 2020, at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic

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**CONT... United International Mortgage Solutions, Inc. Chapter 11**  
appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

United International Mortgage	Represented By Matthew D. Resnik Roksana D. Moradi-Brovia
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**Defendant(s):**

WALTER WALLACE, an individual	Pro Se
KENYATTA MONIFA, an	Pro Se
DOES 1 to 10 Inclusive	Pro Se
All Persons or Entities Unknown	Pro Se

**Plaintiff(s):**

United International Mortgage	Represented By Matthew D. Resnik
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**2:16-25508 Lempa Roofing Inc**

**Chapter 7**

Adv#: 2:18-01328 Gonzalez v. Home Depot Product Authority, LLC et al

**#100.00** Pre-Trial Conference

RE: [9] Amended Complaint - First Amended Complaint for: (1) Avoidance and Recovery of Fraudulent Transfers; (2) Avoidance and Recovery of Preferential Transfers; (3) Avoidance and Recovery of Post-Petition Transfers; and (4) Preservation of Recovered Transfers for Benefit of Debtors Estate; [11 U.S.C. § 544 and California Civil Code § 3439 et. seq. and 11 U.S.C. §§ 547, 548, 549 and 550] - by Anthony A Friedman on behalf of Rosendo Gonzalez against CITIBANK, N.A., Home Depot Credit Services, Home Depot U.S.A., Inc.. (RE: related document(s)1 Adversary case 2:18-ap-01328. Complaint by Rosendo Gonzalez against Home Depot Product Authority, LLC, The Home Depot, Inc., Home Depot Credit Services, Home Depot U.S.A., Inc.. (Charge To Estate). - Complaint for (1) Avoidance and Recovery of Fraudulent Transfers; (2) Avoidance and Recovery of Preferential Transfers; (3) Avoidance and Recovery of Post-Petition Transfers; and (4) Preservation of Recovered Transfers for Benefit of Debtor's Estate [11 U.S.C. § 544 and California Civil Code § 3439 et. seq. and 11 U.S.C. §§ 547, 548, 549 and 550] - Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) filed by Plaintiff Rosendo Gonzalez). (Friedman, Anthony)

fr: 8-13-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 1-3-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lempa Roofing Inc

Represented By  
Barbara J Craig

**Defendant(s):**

Home Depot Product Authority, LLC

Pro Se

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**CONT... Lempa Roofing Inc**

**Chapter 7**

The Home Depot, Inc. Pro Se

Home Depot Credit Services Pro Se

Home Depot U.S.A., Inc. Pro Se

**Plaintiff(s):**

Rosendo Gonzalez Represented By  
Anthony A Friedman

**Trustee(s):**

Rosendo Gonzalez (TR) Represented By  
Anthony A Friedman

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**2:17-13266 Golden Diamond International Inc.**

**Chapter 7**

Adv#: 2:18-01303 Krasnoff, Chapter 7 Trustee v. Complete Business Solutions Group, Inc. et al

**#101.00** Pre-Trial Conference  
RE: [27] Amended Complaint Trustee's First Amended Complaint for Interpleader by Sonia Singh on behalf of Brad D Krasnoff (TR), Brad D. Krasnoff, Chapter 7 Trustee against all defendants. (RE: related document(s)1 Adversary case 2:18-ap-01303. Complaint by Brad D. Krasnoff, Chapter 7 Trustee against Complete Business Solutions Group, Inc., ML Factors Funding LLC, Last Chance Funding, Inc., TVT Capital LLC, Finishline Capital, Inc., Karish Kapital LLC, Yellowstone Capital West. (Charge To Estate). Trustee's Complaint for Interpleader Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) filed by Plaintiff Brad D. Krasnoff, Chapter 7 Trustee). (Singh, Sonia)

Docket 27

**\*\*\* VACATED \*\*\* REASON: DISMISSED 5-28-19**

**Tentative Ruling:**

- NONE LISTED -

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

Golden Diamond International Inc.	Represented By Maria W Tam
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**Defendant(s):**

Complete Business Solutions Group,	Pro Se
ML Factors Funding LLC	Pro Se
Last Chance Funding, Inc.	Pro Se
TVT Capital LLC	Pro Se
Finishline Capital, Inc.	Pro Se
Karish Kapital LLC	Pro Se
Yellowstone Capital West	Pro Se



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11:00 AM

**CONT... Golden Diamond International Inc. Chapter 7**

Rapid Capital Funding II, LLC Pro Se

Corporation Service Company, as Pro Se

CT Corporation System as Pro Se

**Plaintiff(s):**

Brad D. Krasnoff, Chapter 7 Trustee Represented By  
Sonia Singh  
Eric P Israel

**Trustee(s):**

Brad D Krasnoff (TR) Represented By  
Sonia Singh

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**2:17-19286 Carnaval de Autos**

**Chapter 7**

Adv#: 2:18-01455 Goodrich v. Premier Auto Credit, a California corporation et a

**#102.00** Pre-Trial Conference  
RE: [1] Adversary case 2:18-ap-01455. Complaint by David M Goodrich against Premier Auto Credit, a California corporation. (Charge To Estate).  
(Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)) (Nachimson, Benjamin)  
  
fr. 4-16-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9/27/19**

**Tentative Ruling:**

- NONE LISTED -

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

Carnaval de Autos

Represented By  
Eric Bensamochan

**Defendant(s):**

Premier Auto Credit, a California  
DOES 1-10 inclusive

Pro Se  
Pro Se

**Plaintiff(s):**

David M Goodrich

Represented By  
Benjamin Nachimson

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Benjamin Nachimson

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11:00 AM

**2:18-11795 Alana Gershfeld**

**Chapter 7**

Adv#: 2:19-01052 Dye v. Khasin et al

**#103.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01052. Complaint by Carolyn A Dye against Maria Khasin, Larry A. Khasin, M & L Living Trust. (Charge To Estate).  
Complaint: (1) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. §§ 544 And 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; And,(3) Automatic Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551  
Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))  
(Gonzalez, Rosendo)

FR 7-16-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-14-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Alana Gershfeld

Represented By  
Alla Tenina

**Defendant(s):**

Maria Khasin

Pro Se

Larry A. Khasin

Pro Se

M & L Living Trust

Pro Se

**Plaintiff(s):**

Carolyn A Dye

Represented By  
Rosendo Gonzalez

**Trustee(s):**

Carolyn A Dye (TR)

Represented By

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**CONT...**

**Alana Gershfeld**

Rosendo Gonzalez

**Chapter 7**

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11:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

Adv#: 2:18-01260 Amin v. Emein

**#104.00** Pre-Trial Conference  
RE: [21] Amended Complaint 2nd Amended by Michael N Berke on behalf of  
Joseph Amin against Kami Emein

fr: 7-16-19, 9-10-19

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Defendant(s):**

Kami Emein

Represented By  
TJ Fox

**Plaintiff(s):**

Joseph Amin

Represented By  
Michael N Berke

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh

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11:00 AM

**2:18-17990 OBI Probiotic Soda LLC**

**Chapter 7**

Adv#: 2:19-01097 Goodrich v. Phillips et al

**#105.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01097. Complaint by David M Goodrich against Paul Phillips, Jeff Bonyun, Scott Strasser, Soames Floweree, Eion Hu, Yongjae Kim, Kevin Barenblat, Jeffrey Rhodes, OBI Acquisition, LLC, a Delaware limited liability company, OBI Soda, LLC, a Delaware limited liability company, MB Growth Advisors Corporation, a Nevada corporation. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(81 (Subordination of claim or interest)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Bagdanov, Jessica)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 1-9-20**

**Tentative Ruling:**

- NONE LISTED -

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

OBI Probiotic Soda LLC	Pro Se
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**Defendant(s):**

Paul Phillips	Pro Se
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Jeff Bonyun	Pro Se
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Scott Strasser	Pro Se
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Soames Floweree	Pro Se
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Eion Hu	Pro Se
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Yongjae Kim	Pro Se
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Kevin Barenblat	Pro Se
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Jeffrey Rhodes	Pro Se
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**CONT... OBI Probiotic Soda LLC Chapter 7**

OBI Acquisition, LLC, a Delaware Pro Se

OBI Soda, LLC, a Delaware limited Pro Se

MB Growth Advisors Corporation, a Pro Se

DOES 1-25 Pro Se

**Plaintiff(s):**

David M Goodrich

Represented By  
Jessica L Bagdanov

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Steven T Gubner  
Jessica L Bagdanov

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11:00 AM

**2:18-20111 Jeremy Wyatt LeClair**

**Chapter 7**

Adv#: 2:18-01425 Cortes v. LeClair

**#106.00** Pretrial

RE: [1] Adversary case 2:18-ap-01425. Complaint by Alvaro Cortes against Jeremy Wyatt LeClair. false pretenses, false representation, actual fraud)),(11 (Recovery of money/property - 542 turnover of property)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Weissman, I)

fr. 3-12-19; 4-16-19; 5-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-15-19**

**Tentative Ruling:**

5/14/2019

See Cal. No. 1, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Defendant(s):**

Jeremy Wyatt LeClair

Pro Se

**Plaintiff(s):**

Alvaro Cortes

Represented By  
I Donald Weissman

**Trustee(s):**

Sam S Leslie (TR)

Pro Se



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11:00 AM

**2:18-21480 Rosa Huong Duong**

**Chapter 7**

Adv#: 2:19-01048 Miller, Chapter 7 Trustee v. Mai et al

**#107.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01048. Complaint by Elissa D Miller, Chapter 7 Trustee against Mik H Mai, DLMRT Corporation Inc., a California corporation, Rosa Huong Duong, Pier Duong. (Charge To Estate). Complaint For (1) Avoidance and Recovery of Fraudulent Conveyance Pursuant to 11 U.S.C. §§ 544, 548, and 550, (2) Alter Ego, and (3) Conspiracy to Commit Fraudulent Transfer Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

FR. 5-14-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT ENTERED 9-24-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Rosa Huong Duong

Represented By  
Barry E Borowitz

**Defendant(s):**

Mik H Mai

Pro Se

DLMRT Corporation Inc., a

Pro Se

Rosa Huong Duong

Pro Se

Pier Duong

Pro Se

**Plaintiff(s):**

Elissa D Miller, Chapter 7 Trustee

Represented By  
Steven Werth

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11:00 AM

**CONT... Rosa Huong Duong**

**Chapter 7**

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Steven Werth

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11:00 AM

**2:18-22393 Sharon R Williams**

**Chapter 7**

Adv#: 2:19-01050 Miller v. Hancox

**#108.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01050. Complaint by Elissa D. Miller against Donnell Hancox. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(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))) (Simons, Larry)

fr. 6-11-19; 12-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-10-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Sharon R Williams	Pro Se
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**Defendant(s):**

Donnell Hancox	Pro Se
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**Plaintiff(s):**

Elissa D. Miller	Represented By Larry D Simons
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**Trustee(s):**

Elissa Miller (TR)	Represented By Larry D Simons
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11:00 AM

**2:18-22399 Dorothy Victoria Long**

**Chapter 7**

Adv#: 2:19-01086 United States Trustee for the Central District of v. Long

**#109.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01086. Complaint by United States Trustee (LA) against Dorothy Victoria Long. (Fee Not Required). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference)  
Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e)))  
(Morrison, Kelly)

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to 3/10/2020 at 11:00 a.m.**

**Tentative Ruling:**

- NONE LISTED -

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

Dorothy Victoria Long	Pro Se
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**Defendant(s):**

Dorothy Victoria Long	Pro Se
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**Plaintiff(s):**

United States Trustee for the Central	Represented By Kelly L Morrison
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**Trustee(s):**

Brad D Krasnoff (TR)	Pro Se
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11:00 AM

**2:18-22630 Fabricio Mejia**

**Chapter 7**

Adv#: 2:19-01024 Amy's Pastry. Inc. v. Mejia et al

**#110.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01024. Complaint by Amy's Pastry. Inc. against Fabricio Mejia, Ana Gloria Mejia. 2, & 3) Nature of Suit: (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Bensamochan, Eric)

FR.12-10-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 8/30/19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Fabricio Mejia

Represented By  
Jennifer Ann Aragon

**Defendant(s):**

Fabricio Mejia

Pro Se

Ana Gloria Mejia

Pro Se

**Joint Debtor(s):**

Ana Gloria Mejia

Represented By  
Jennifer Ann Aragon

**Plaintiff(s):**

Amy's Pastry. Inc.

Represented By  
Eric Bensamochan

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

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11:00 AM

**CONT... Fabricio Mejia**

**Chapter 7**

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11:00 AM

**2:18-23944 Yean Hee Kim**

**Chapter 7**

Adv#: 2:19-01058 Jeong v. Kim et al

**#111.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01058. Complaint by Younkyung Jeong against Yean Hee Kim. false pretenses, false representation, actual fraud)),(65 (Dischargeability - other)),(65 (Dischargeability - other)),(65 (Dischargeability - other)) (lwuchuku, Donald)

FR. 12-10-19

Docket 1

**Tentative Ruling:**

1/13/2020

According to a declaration submitted by Andrew E. Smyth, Defendant's counsel (the "Smyth Decl."), Plaintiff's counsel has refused to cooperate in the preparation of a proposed Joint Pretrial Stipulation (the "Pretrial Stipulation"). Specifically, Defendant's counsel states that he has telephoned Plaintiff's counsel on January 2, 3, 6, 7, 8, and 9, 2020, but that none of his calls have been returned.

By separate order, the Court will require Plaintiff to appear and show cause why this action should not be dismissed for failure to prosecute, pursuant to Civil Rule 41.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Yean Hee Kim

Represented By

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CONT...      **Yean Hee Kim**

**Chapter 7**

M Teri Lim

**Defendant(s):**

Yean Hee Kim

Pro Se

Yean Hee Kim

Pro Se

**Plaintiff(s):**

Younkyung Jeong

Represented By  
Donald E Iwuchuku

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se



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**2:18-24769 Paul A. Carrasco**

**Chapter 7**

Adv#: 2:19-01085      MERCHANTS ACQUISITION GROUP LLC v. Carrasco

**#112.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01085. Complaint by MERCHANTS ACQUISITION GROUP LLC against Paul Carrasco. false pretenses, false representation, actual fraud)) (Snyder, Richard)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONT'D TO 5-12-20 at 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Paul A. Carrasco

Represented By  
Raymond H. Aver

**Defendant(s):**

Paul Carrasco

Pro Se

**Plaintiff(s):**

MERCHANTS ACQUISITION

Represented By  
Richard W Snyder

**Trustee(s):**

David M Goodrich (TR)

Pro Se

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11:00 AM

**2:19-10095 Jorge Villalobos Aguirre**

**Chapter 7**

Adv#: 2:19-01099 SECURITY FIRST BANK v. AGUIRRE

**#113.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01099. Complaint by SECURITY FIRST BANK against JORGE VILLALOBOS AGUIRRE. false pretenses, false representation, actual fraud)) (Dunning, Donald)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT GRANTED AT 8-7  
-19 HEARING**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jorge Villalobos Aguirre

Represented By  
Giovanni Orantes

**Defendant(s):**

JORGE VILLALOBOS AGUIRRE

Pro Se

**Plaintiff(s):**

SECURITY FIRST BANK

Represented By  
Donald T Dunning

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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11:00 AM

**2:19-18933 Roderick R Chatman**

**Chapter 7**

**#114.00** Hearing  
RE: [21] Motion to Dismiss Case for Abuse and Notice of Motion (BNC)  
Pursuant to 11 U.S.C. 707(b)(1), (b)(2) and (3)(B) and Contingent Motion to  
Extend Bar Date for Filing Complaint Under 11 U.S.C. 727 Objecting to Debtor's  
Discharge;

FR. 12-10-19

Docket 21

**Tentative Ruling:**

1/13/2020

For the reasons set forth below, the Motion is GRANTED. The Court finds that the granting of relief in this case would be an abuse of Chapter 7. The case will be dismissed unless the Debtor agrees to conversion to Chapter 13.

**Pleadings Filed and Reviewed:**

- 1) United States Trustee's Notice of Motion and Motion to Dismiss Chapter 7 Case Pursuant to 11 U.S.C. §§707(b)(1), (b)(2), and (3)(B) and Contingent Motion to Extend Bar Date For Filing Complaint Under 11 U.S.C. § 727 Objecting to Debtor's Discharge (the "Motion to Dismiss") [Doc. No. 21]
  - a) Request for Judicial Notice [Doc. No. 22]
  - b) Stipulation By Roderick R Chatman and Alvin Mar, Attorney for the United States Trustee [Doc. No. 27]
  - c) Order Granting Stipulation [Doc. No. 28]
- 2) Debtor's Opposition to United States Trustee's Notice of Motion and Motion to Dismiss Chapter 7 Case Pursuant to 11 U.S.C. §§707(b)(1), (b)(2), and (3)(B) and Contingent Motion to Extend Bar Date For Filing Complaint Under 11 U.S.C. § 727 Objecting to Debtor's Discharge (the "Opposition") [Doc. No. 30]
- 3) United States Trustee's Reply to Debtor's Opposition to United States Trustee's Notice of Motion and Motion to Dismiss Chapter 7 Case Pursuant to 11 U.S.C. §§ 707(b)(1), (b)(2), and (3)(B) and Contingent Motion to Extend Bar Date For Filing Complaint Under 11 U.S.C. § 727 Objecting to Debtor's Discharge (the "Reply")

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CONT... **Rederick R Chatman**  
[Doc. No. 31]

Chapter 7

### **I. Facts and Summary of Pleadings**

Rederick R. Chatman (the "Debtor") commenced a voluntary Chapter 7 petition on July 31, 2019 (the "Petition Date"). Debtor owes primarily consumer debts, consisting of \$50,948 in nonpriority unsecured debt. *See* RJN, Ex. 1 [Debtor's Official Form 101 and Schedule E/F] [Note 1]. As indicated on Debtor's Means Test form (the "Debtor's Means Test"), Debtor has a current monthly income ("CMI") of \$16,656 and allowed deductions of \$17,046, demonstrating monthly disposable income of -\$390. *See* RJN, Ex. 2. Debtor stated that there was no presumption of abuse as he possessed -\$23,400 in total disposable income over the next sixty months. *Id.* The § 341(a) meeting of the creditors initially took place on September 5, 2019 and was concluded on November 15, 2019 after being twice continued. On October 29, 2019, the United States Trustee's Office (the "UST") filed a Statement of Presumed Abuse (the "10-Day Statement") and subsequently filed a motion to dismiss the Debtor's Chapter 7 case for abuse pursuant to §707(b) (the "Motion") on November 1, 2019 [Doc. No. 21]. The parties stipulated to a continuance of the hearing date on the Motion and filing deadlines [Doc. No. 27].

### **Summary of the Motion**

As set forth on the moving papers, the UST moves to dismiss the Debtor's case for presumed abuse, based on the Debtor's failure to pass the means test set forth in § 707(b)(2) (the "Means Test"), or in the alternative, for abuse under the "totality of the circumstances" test pursuant to §707(b)(3)(B). According to the UST, the proper Means Test calculation shows that the Debtor has \$3,283.04 in monthly disposable income, after allowed deductions, equating to \$196,982.40 in income available to fully repay unsecured creditors over a sixty-month period. Motion, Ex. 2. The UST supplied a revised Means Test form (the "UST's Means Test") [Exhibit 2 of the Motion], which corrects errors and other inaccurate information provided on Debtor's Means Test [RJN, Ex. 2]. In support of the Motion, the UST attached the declaration of bankruptcy analyst, Wendy Carole Sadovnick, who explains that the UST's Means Test is based on her review of the Debtor's schedules, his testimony at the § 341(a) meeting, and other financial documents submitted by Debtor. *See* Declaration of Wendy Carole Sadovnick [Sadovnick Decl.], ¶¶ 2-3. The UST asserts that Debtor provided an erroneous Means Test calculation because 1) Debtor's actual CMI of \$16,012.88 is overstated by \$643, and 2) Debtor misrepresented allowed expense

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**CONT...**      **Rederick R Chatman**  
deductions as itemized below.

**Chapter 7**

1. Line 5 (household size). According to Debtor's § 341(a) meeting testimony, Debtor's actual household size is of two (2) individuals, not four (4).
2. Debtor's actual household size implicates modifications of the following line items:
  - a. Line 6 (Food and Clothing Expenses, from \$1,786 to \$1,288)
  - b. Line 7g (Out-of-pocket healthcare expenses, from \$220 to \$110)
  - c. Line 8 (Housing and Utilities, from \$713 to \$607)
  - d. Line 9 (Local Housing Allowance, from \$2,403 to \$2,045)
3. Line 12 (vehicle operation expense, from \$410 to \$746)
4. Line 13b (monthly car payments, from \$551 to \$478.96) & Line 13c (from \$29.04 to \$0)
5. Line 13e (monthly car payments for second car, from \$62 to \$0) & Line 13f (from \$446 to \$243.84)
6. Lines 14 and 15 (for public transportation, expenses of \$217 per item were permitted pending supporting documentation from Debtor)
7. Line 19 (court-ordered child support payments, from \$750 to \$0). Based on Debtor's testimony, no court order exists requiring child support payments.
8. Line 21 (childcare expenses, from \$680 to \$227)
9. Line 22 (healthcare expenses, expenses of \$350 remain the same pending documentation)
10. Line 23 (for optional and telephone services, from \$250 to \$0)
11. Line 26 (for contributions to family members, from \$0 to \$3,500). Debtor's expenses increased based on documentation indicating that Debtor pays for his mother's care in a senior facility.
12. Line 31 (for charitable contributions, from \$400 to \$0)
13. Line 35 (for priority claims, from \$61 to \$0)
14. Line 36 (for Chapter 13 administrative expenses, from \$0 to \$336.66)

*See Sadovnick Decl., ¶¶ 5-29.*

Based on the foregoing, the Debtor's allowable expense deductions total only \$12,789.84, indicating that Debtor's disposable income over sixty months is more than enough to repay unsecured claims in five years. *Id.*, ¶ 28. Anticipating that Debtor will attempt to rebut the presumption of abuse, the UST argues that Debtor

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**CONT... Rederick R Chatman**

**Chapter 7**

must establish "special circumstances to the extent such special circumstances justify additional expenses or adjustments to [Debtor's CMI] for which there is no reasonable alternative." Motion at 15 (citing 11 U.S.C. § 707(b)(2)(B)(I) & (ii).) The UST further relies on the decision in *In re Castle*, which stands for the proposition that events that constitute special circumstances are "akin" to a "serious medical condition" or "a call or order to active duty in the Armed Forces." 362 B.R. 846, 851 (Bankr. N.D. Ohio 2006). Accordingly, the Debtor has not previously demonstrated any situation qualifying as a "special circumstance." Even if the Court does not find presumed abuse, the UST maintains that this case can be dismissed as "abusive" under § 707(b)(3)(B) based on the "totality of the circumstances." The UST asserts that based on adjustments to Debtor's Schedules I and J, which are in turn derived from revisions reflected in the UST's Means Test, Debtor would have disposable income of \$190,062 over the next five years, a sufficient amount to pay 100% of unsecured claims. *See* Sadovnick Decl., ¶¶ 34 and 35. In the alternative, if the Court does not grant this Motion, the UST requests an order extending the bar date to file a nondischargeability action under § 727.

**Summary of the Opposition**

On January 7, 2019, the Debtor filed an untimely opposition, responding to the UST's arguments as follows [**Note 2**]. First, although the Debtor submits that his CMI is \$16,012.88, he disputes the UST's adjusted deductions to Lines 5, 19, 21, and 23, and maintains that he cannot afford to pay unsecured creditors over the next five years. Debtor failed to contest adjustments as to all other lines. With respect to Line 5, Debtor contends that he actually lives in a four-person household because he is financially responsible for his two sons (ages 27 and 5) and his daughter (age 16). In support, Debtor further claims that he shares joint legal and physical custody of his two youngest children, as shown in notarized statements submitted by each child's mother. With respect to Line 21, Debtor now reports that childcare expenses amount to \$777, not \$680 as originally reported. The Debtor further disputes the modification in Line 23 for optional telephone services as these costs were actually incurred for Debtor and his dependents. The Court notes that Debtor failed to attach his declaration, referenced notarized statements, or any other financial record supporting his contentions.

Next, even if the presumption of abuse is triggered, the Debtor claims that special circumstances exist here to rebut such presumption. First, Debtor, who works in the

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oil refinery industry, has experienced a significant decrease in income based on external market forces. *See* Opposition at 5. Second, under California law, Debtor claims that he is legally required to financially support his two minor children. *See id.* at 6-7 (the Debtor referenced California Family Code § 7611(d) without further discussion). Third, Debtor indicates he will incur \$5,000 in attorney's fees to obtain a child support order in a paternity action. *See id.* at 7. Finally, the Debtor argues that the UST filed the mandatory 10-Day Statement late on October 29, 2019, when it should have been filed no later than September 15, 2019, ten days after the first creditor's meeting on September 5, 2019. The Court further notes that Debtor provided updated figures for the Means Test, which show total allowed deductions of \$13,903.84, monthly disposable income of \$2,109, and disposable income of \$126,542.40 over sixty months. Debtor's revised calculations would indicate a presumption of abuse under § 707(b)(2).

**Summary of the Reply**

At the outset, the UST argues that Debtor's untimely opposition should be ignored as it prejudiced the UST's ability to prepare a reply, and it also failed to include a proof of service. Next, relying on the opinion in *In re Reed*, 422 B.R. 214, 225 (C.D. Cal. 2009), the UST posits that the 10-Day Statement was timely filed as the ten-day deadline was triggered at the conclusion of the meeting of creditors on November 15, 2019. In response to Debtor's substantive arguments, the UST contends that Debtor failed to proffer any evidence rebutting the revised figures provided in the UST's Means Test, which were based on Debtor's financial information and his sworn testimony. Accordingly, the Opposition is only substantiated by the declaration of Debtor's counsel, which is objectionable hearsay pursuant to Federal Rule of Evidence § 801.

The UST further remarks upon Debtor's amended, and unsubstantiated, Means Test provided in the Opposition. Even under this updated calculation, the UST states, the presumption of abuse arises under § 707(b)(2). The UST contends that Debtor has failed to rebut presumed abuse because he did not offer evidence supporting special circumstances. Even so, the UST avers that neither Debtor's childcare expenses nor his reduced income in June 2019 can be deemed a "special circumstance" under § 707(b)(2)(B)(i), e.g., a "serious medical condition or call or order to active duty in the Armed Forces". In fact, the UST notes that Debtor's amended Means Test, which includes childcare expense deductions, triggers the presumption of abuse. In sum, the

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UST reiterates that the Debtor has failed to rebut the presumption of abuse, and this case should be dismissed. In the event the Court determines that Debtor's case is not presumptively abusive, the UST restates the alternative relief described above.

## **II. Findings of Fact and Conclusions of Law**

### **A. Procedural Issues**

#### ***i. Debtor's Opposition will be reviewed notwithstanding procedural defects***

As a preliminary matter, the Court recognizes that Debtor's Opposition was not in compliance with Local Bankruptcy Rules 9013-1(e) and 9013-1(f), and Rule 9014(b) of the Federal Rules of Bankruptcy Procedure. Notwithstanding these procedural defects, the Court considers that the UST apparently received the Motion and had an opportunity to submit a well-argued and timely reply. Therefore, Debtor's untimeliness was not prejudicial to the UST. In light of the foregoing, and for the purposes of this tentative ruling, the Court will overlook issues regarding the late filing and the sufficiency of service.

#### ***ii. The UST's 10-Day Statement was timely***

The Debtor argues that the Motion should be denied because the UST untimely filed the mandatory 10-Day Statement on October 29, 2019.

The Court acknowledges the split in authority regarding the deadline by which the UST is required to submit the 10-Day Statement. For instance, certain bankruptcy courts construe the plain language found in § 704(b)(1) that "not later than 10 days after the date of the first [§ 341(a) meeting]," means that the UST must file the 10-Day Statement ten days after the first § 341(a) creditor meeting. *In re Close*, 353 B.R. 915, 918 (Bankr. D. Kan. 2006). In *In re Cadwalllder*, No. 06-36424, 2007 WL 1864154 (Bankr. S.D. Tex. June 28, 2007), the Court reached a different conclusion, determining that the ten-day period begins running once the first creditor meeting has concluded. *See* at \*13 ("The ten days in which the U.S. Trustee must file his statement runs from the end of the creditors' meeting, not the commencement of the creditors' meeting.") Courts following the *Cadwalllder* decision reason that the UST's office should not be compelled to determine whether a case is presumptively abusive until it has had an opportunity to review a debtor's financial information. *See, e.g., In*



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*re Reed*, 422 B.R. at 225 ("To require the UST to make an immediate determination of abuse based on incomplete or inaccurate information would not only be illogical but would be contrary to BAPCPA's goals of restoring 'integrity in the bankruptcy system' and 'ensuring' that the system is fair to both debtors and creditors.") (internal citations omitted); *see also* Alan N. Resnick, 6 Collier on Bankruptcy § 704.17[1], at 704-36 to 704-37 (rev. 15th ed. 2006) (stating that the "first meeting of the creditors" deadline refers to the conclusion of the § 341(a) meeting).

This Court agrees with the *Cadwallder* court and *Collier* in finding that the 10-Day Statement must be filed ten days after the conclusion of the § 341(a) creditor meeting. Consistent with the rationale adopted by *Cadwallder* courts, it is understandable that the UST was not able to file the 10-Day Statement ten days after the first creditor's meeting on September 5 because Debtor delayed in producing requested financial records until October 15. As such, it would have been unrealistic to expect that the UST make a determination of abuse without required financial records. In short, because the § 341(a) creditor meeting concluded on November 15, 2019, the 10-Day Statement was timely submitted on October 19, 2019.

**B. Debtor's Case is Presumptively Abusive**

This Court has explained the function and purpose of the Means Test as follows: Among the significant changes effected by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") was the introduction of the § 707(b)(2) Means Test. Designed to ferret out abusive bankruptcy petitions, the Means Test creates a "presumption of abuse" if the debtor's Current Monthly Income (CMI)—as determined by a detailed statutory formula—is above a certain amount. Debtors unable to rebut the presumption of abuse may have their cases dismissed or be required to fund a Chapter 13 plan. However, even debtors who survive the Means Test may see their cases dismissed pursuant to § 707(b)(3)(B), which permits the Court to dismiss a case if "the totality of the circumstances ... of the debtor's financial situation demonstrates abuse."

*In re Jensen*, 407 B.R. 378, 380–81 (Bankr. C.D. Cal. 2009).

"Current monthly income" ("CMI") for purposes of the Means Test calculation is defined as the "average monthly income from all sources that the debtor receives ... during the 6-month period ending on the last day of the calendar month immediately

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preceding the date of the commencement of the case ...." 11 U.S.C. § 101(10A).

***i. The Debtor's CMI is \$16,012.88***

The Debtor initially stated that his CMI was \$16,656. *See* RJN, Ex. 1. Based on Debtor's pay advices, the UST contends that this figure is overstated and that the Debtor's CMI is actually \$16,012.88. *See* Sadovnick Decl., ¶ 7. Without explanation, the Debtor concedes the original CMI figure was overstated. *See* Opposition at 7 (Debtor's amended Means Test includes the figure provided by the UST). Noting the lack of opposition, the Court finds that Debtor has a CMI of \$16,012.88 for purposes of the Means Test.

***ii. Debtor is entitled to claim allowed deductions totaling \$12,729.84***

The UST listed twenty line adjustments to Debtor's Means Test. In the Opposition, the Debtor concedes all but four adjustments to Lines 5 (household size), 19 (court-ordered child support payments), 21 (childcare expenses), and 23 (additional telephone services). The Court notes that the Opposition is only supported by the declaration of Debtor's counsel, who is deemed unqualified to possess personal knowledge of Debtor's financial conditions. To the extent that Debtor did not supply his own declaration or any corroborating evidence, the statements concerning Lines 5, 19, and 21 are uncorroborated [**Note 3**]. With respect to childcare expenses, Debtor references a series of monthly payments made to the mothers of his two minor children for \$500 and \$750. The \$500 payment is alluded in the affidavit of Sandi Clinkscales in Exhibit 8 of the Motion, while Exhibit 9 contains a record of payments disbursed to Tanga Paul through the electronic payment application, Venmo. However, the Court is concerned that none of these payments appear to come from Debtor's bank account (Exhibit 10), and Debtor did not explain this discrepancy. With respect to Line 23, the Court is unpersuaded by Debtor's statement because he has not explained why additional telephone services are not already accounted for in Line 8 (housing and utilities allowances). As discussed below, the problem with Debtor's position transcends his uncorroborated assertions, because even if the Court were to accept Debtor's amended Means Test, the presumption of abuse will still arise. In sum, the Debtor has failed to rebut the UST's deduction adjustments, as such, the Court finds that Debtor may only claim \$12,729.84 for the purposes of the Means Test calculations.

***iii. Means Test Calculation***

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Based on the findings set forth above, the presumption of abuse arises. Debtor's CMI is \$16,012.88. The Debtor's total allowable monthly expenses are \$12,729.84. That leaves the Debtor with monthly disposable income of \$3,283.04, or disposable income over a 60-month period of \$196,982.40, which would be sufficient to pay off unsecured claims totaling \$50,948. The Debtor's disposable income far exceeds the \$12,850 threshold triggering the presumption of abuse under §707(b)(2)(A)(i)(II).

**C. The Debtor Has Failed to Rebut the Presumption of Abuse**

Section 707(b)(2)(B)(i) provides that the presumption of abuse may be rebutted by "demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances ... justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative." To establish special circumstances, the Debtor must itemize each additional expense and provide "a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable." § 707(b)(2)(B)(ii).

According to the Debtor, special circumstances exist to rebut the presumption of abuse because 1) Debtor's income decreased in June 2019 due to external market forces, 2) he is legally required to financially support his two minor children, and 3) Debtor will incur \$5,000 in attorney's fees for to obtain a child support order. The Court addresses Debtor's contentions in order.

First, the Debtor volunteers that as oil refinery worker his salary is contingent on his employer's ability to secure agreements with third parties, as well as on the United States' foreign relations. Debtor's evidentiary support is limited to a reference of his pay advises, attached as Exhibit 4 of the Motion, which demonstrate that he earned in \$5,221 in June 2019. The Debtor fails to discuss the impact of his fluctuating income in detail, but the Court understands Debtor's position to be that his CMI of \$16,012.88 should be adjusted in light of the external factors described above. The Court rejects this argument because Debtor's pay advises indicate that he was paid below his average CMI only once in the six months preceding the Petition Date. There is no evidence that Debtor's income has continued to decrease post-petition, and in fact, Debtor earned above-averages wages of \$19,866.50 and \$19,216.50 for the months of April and May 2019, respectively. *See* Motion, Ex.4. If there is evidence that Debtor's income has substantially decreased, then Debtor did not

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comply with §§ 707(b)(2)(B)(ii) and (iii), which require debtors to "itemize each additional expense or adjustment of income," provide documentation thereon, and a declaration under oath as to the veracity of information supplied. However, even if Debtor had complied with the Code, the Court notes that the Supreme Court has previously rejected the notion that a prepetition decline in income constitutes a "special circumstance" under § 707(b)(2)(B)(i), and Debtor has not offered any authority to the contrary. *See Hamilton v. Lanning*, 560 U.S. 505, 523 (2010) (discussing "special circumstances" under § 707(b)(2)).

Second, Debtor maintains that the fact that he incurs \$1,700 in monthly child support payments constitutes a special circumstance. At least one bankruptcy court in the Ninth Circuit has concluded that child support payments may meet the "necessary and reasonable" standard for the purposes of a special circumstances analysis. *See In re Littman*, 370 B.R. 820, 831 (Bankr. D. Idaho 2007) (determining that child support payments were necessary and reasonable as ordered by a state court applying Idaho law.) However, unlike *Littman*, Debtor has provided no authority or evidentiary support indicating that the purported child support payments are necessary or reasonable. He has similarly not explained how California Family Code § 7611(d) compels Debtor to disburse the specific amounts claimed as necessary childcare expenses [Note 4]. As noted above, these payments are only generally referenced in Exhibits 9 and 10 of the Motion, but Debtor has neither itemized these expenses nor can these payments be traced back to Debtor's bank account. Debtor's poorly-supported allegations are fatal to his position. *See In re Fechter*, 456 B.R.65, 74 (Bankr. D. Mont. 2011) ("[The] lack of evidence weighs against the Debtors as the parties with the burden of rebutting the presumption of abuse.") Consequently, the Court cannot determine which of these alleged childcare payments were "reasonable or necessary." For the reasons stated above, the Court also cannot find Debtor's alleged \$5,000 legal expense to obtain a child support decree is necessary or reasonable.

Because the Court finds that the presumption of abuse arises under §707(b) and has not been rebutted, the Court does not consider either of the UST's arguments in the alternative that the case should be dismissed pursuant to §707(b)(3)(B) or that the deadline to file a § 727 action be extended.

**D. The Case Will Be Dismissed Unless Debtor Consents to Conversion to**

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Where the §707(b) presumption of abuse arises and has not been rebutted, the Court must dismiss the case, unless the Debtor consents to conversion to Chapter 13. §707(b)(1). The UST states that the Motion seeks only dismissal, not conversion. However, §707(b)(1) expressly provides debtors the option to convert to Chapter 13 if the Court finds that relief under Chapter 7 would be abusive. Therefore, based upon the Debtor's election, the case will either be dismissed or will be converted to Chapter 13.

### **III. Conclusion**

Over a sixty-month period, the Debtor has \$196,982.40 in income available to repay unsecured creditors. The §707(b) presumption of abuse arises and has not been rebutted. The case will be dismissed, unless the Debtor consents to conversion to Chapter 13.

The Debtor should appear to advise the Court whether he consents to conversion to Chapter 13 (a telephonic appearance is acceptable). The UST is not required to appear. If the Debtor intends to contest the tentative ruling, he must advise the UST of his intention to do so prior to the hearing.

**Note 1:** Federal Rule of Evidence 201 allows a court to take judicial notice of facts that are not subject to reasonable dispute because they are either "(1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." *In re Blumer*, 95 B.R. 143, 147 (B.A.P. 9th Cir. 1988). A court may take judicial notice of bankruptcy petitions and schedules as these documents are public record capable of accurate and ready determination. *Becker v. Wells Fargo Bank, Nat. Ass'n*, 2012 WL 5187792 (E.D. Cal. Oct. 18, 2012). Here, the UST requests that the Court take judicial notice of Debtor's schedules, Means Test, and two publicly-available bankruptcy court opinions. The Court finds it appropriate to take judicial notice of the above stated documents in support of the Motion. Therefore, UST's request for judicial notice is granted.

**Note 2:** Pursuant to the order approving the parties' stipulation [Doc. No. 28], Debtor's opposition was due at least 14 days before the continued hearing date of January 14, 2020, but Debtor filed the Opposition on January 7, 2020.

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**Note 3:** Rule 9013-1(f)(2) provides that any responses made in opposition "must be a complete written statement of all reasons in opposition thereto or in support, declarations and copies of all evidence on which the responding party intends to rely, and any responding memorandum of points and authorities." Moreover, "[t]he failure of the responding party to raise its objection or challenge in a Response will be deemed consent to the bankruptcy court's authority to enter a final order on the underlying motion." Local Rule 9013-1(f)(3).

**Note 4:** California Family Code § 7611(d) provides: "A person is presumed to be the natural parent of a child if the person meets the conditions provided in Chapter 1 (commencing with Section 7540) or Chapter 3 (commencing with Section 7570) of Part 2 or in any of the following subdivisions...[t]he presumed parent receives the child into their home and openly holds out the child as their natural child."

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

Rederick R Chatman

Represented By  
Angela R Swan

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

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**2:13-20738 Sergio Miranda**

**Chapter 11**

Adv#: 2:19-01079      Miranda et al v. BANK OF AMERICA NATIONAL ASSOCIATION et al

**#115.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01079. Complaint by Sergio Lopez Miranda against BANK OF AMERICA NATIONAL ASSOCIATION. (Charge To Estate). (Attachments: # 1 Supplement Summons) Nature of Suit: (91 (Declaratory judgment)),(72 (Injunctive relief - other)),(21 (Validity, priority or extent of lien or other interest in property)) (Akintimoye, David)

Docket      1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT IN FAVOR OF SHELLPOINT MORTGAGE ENTERED 9-6-19**

**Tentative Ruling:**

- NONE LISTED -

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

Sergio Miranda

Represented By  
David A Akintimoye

**Defendant(s):**

BANK OF AMERICA NATIONAL

Pro Se

Shellpoint Mortgage Servicing LLC

Pro Se

DOES 1-10, Inclusive

Pro Se

**Joint Debtor(s):**

Esmeralda Miranda

Represented By  
David A Akintimoye

**Plaintiff(s):**

Sergio Lopez Miranda

Represented By  
David A Akintimoye

Esmeralda Miranda

Represented By  
David A Akintimoye

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**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

Adv#: 2:16-01337 LIBERTY ASSET MANAGEMENT CORPORATION et al v. Gao et al

**#116.00** Pre-Trial Conference  
RE: [1] Adversary case 2:16-ap-01337. Complaint by LIBERTY ASSET MANAGEMENT CORPORATION against Lucy Gao, Benjamin Kirk. (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Greenwood, Gail)

Docket 1

\*\*\* VACATED \*\*\* REASON: DISMISSED 10-17-19

**Tentative Ruling:**

4/15/2019

On September 14, 2017, the Court dismissed without prejudice all claims for relief that were (a) not set forth in the *Joint Pretrial Stipulation* [Doc. No. 104] and/or (b) were not adjudicated in connection with the *Findings of Fact and Conclusions of Law Regarding Motion by the Official Committee of Unsecured Creditors for Summary Adjudication of Defendants' Liability for Breach of Fiduciary Duties and Accounting* [Doc. No. 57]. See Order Dismissing Remaining Claims Without Prejudice [Doc. No. 136].

On December 29, 2017, the Court entered a *Judgment in Favor of Plaintiff and Against Defendants, Jointly and Severally, in the Amount of \$74,140,695.29* [Doc. No. 142] (the "Judgment"). On February 8, 2019, the District Court reversed and remanded the Judgment and the *Order Granting the Official Committee of Unsecured Creditors' Motion for Summary Adjudication of Defendants' Liability for Breach of Fiduciary Duties and Accounting* [Doc. No. 58].

Having reviewed the Status Report filed by the Plan Administrator, the Court HEREBY ORDERS as follows:

- 1) The following litigation deadlines shall apply to the adjudication of the Plan Administrator's claims for breach of fiduciary duty and failure to account:
  - a) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **11/28/2019**.
  - b) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to

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- expert discovery, is **12/17/2019**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- c) The last day for dispositive motions to be heard is **12/24/2019**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - d) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **12/28/2019**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - e) A Pretrial Conference is set for **1/14/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - f) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1.

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The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **1/27/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

The Court will prepare and enter a Scheduling Order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Liberty Asset Management

Represented By  
David B Golubchik

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Jeffrey S Kwong  
John-Patrick M Fritz  
Eve H Karasik  
Sandford L. Frey  
Raphael Cung

**Defendant(s):**

Lucy Gao

Represented By  
Stephen R Wade

Benjamin Kirk

Represented By  
Derrick Talerico

**Plaintiff(s):**

LIBERTY ASSET MANAGEMENT

Represented By  
Jeremy V Richards  
Gail S Greenwood

Official Committee of Unsecured

Represented By  
Gail S Greenwood  
Jeremy V Richards  
Mitchell B Ludwig

Bradley D. Sharp

Represented By  
Jeremy V Richards  
Mitchell B Ludwig

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**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

Adv#: 2:19-01077 Sharp v. Wright et al

**#117.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01077. Complaint by Bradley Sharp against Merle D. Wright, Patricia S. Wright & Bradford W. Wright. priority or extent of lien or other interest in property)) (Greenwood, Gail)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT 6-5-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Liberty Asset Management

Represented By  
David B Golubchik  
Jeffrey S Kwong  
John-Patrick M Fritz  
Eve H Karasik  
Sandford L. Frey  
Raphael Cung

**Defendant(s):**

Merle D Wright

Pro Se

Patricia S Wright

Pro Se

Bradford W Wright

Pro Se

**Plaintiff(s):**

Bradley Sharp

Represented By  
Gail S Greenwood

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-17463 Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

Adv#: 2:18-01181 Official Committee of Unsecured Creditors of Garde v. Superior Scientific,

**#118.00** Pre-Trial Conference

RE: [1] Adversary case 2:18-ap-01181. Complaint by Official Committee of Unsecured Creditors of Gardens Regional Hospital and Medical Center, Inc. against Superior Scientific, Inc.. (Charge To Estate). for Avoidance and Recover of Preferential Transfers Pursuant to 11 U.S.C. Section 547 and 550 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Golden, Jeffrey)

fr. 4-16-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-4-19**

**Tentative Ruling:**

- NONE LISTED -

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

Gardens Regional Hospital and

Represented By  
Samuel R Maizel  
John A Moe

**Defendant(s):**

Superior Scientific, Inc.

Pro Se

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Jeffrey I Golden

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, January 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-17463 Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

Adv#: 2:18-01192 Official Committee of Unsecured Creditors of Garde v. Mediclean, Inc.

**#119.00** Pretrial

RE: [1] Adversary case 2:18-ap-01192. Complaint by Official Committee of Unsecured Creditors of Gardens Regional Hospital and Medical Center, Inc. against Mediclean, Inc.. (Charge To Estate). for Avoidance and Recover of Preferential Transfers Pursuant to 11 U.S.C. Section 547 and 550 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Golden, Jeffrey)

fr 8-22-18; 11-13-18; 1-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 7-11-19**

**Tentative Ruling:**

4/15/2019

At the prior Status Conference, the Court advised the parties that it would set litigation deadlines in the event the action had not settled by the date of this Status Conference. The action has not settled. Good cause appearing, the Court HEREBY ORDERS as follows:

- 1) The following litigation deadlines shall apply:
  - a) A continued Status Conference is set for **6/11/2019 at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.
  - b) The last day to amend pleadings and/or join other parties is **7/11/2019**.
  - c) The last day to disclose expert witnesses and expert witness reports is **10/29/2019**.
  - d) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **11/28/2019**.
  - e) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **12/17/2019**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendar dates, posted on the Court's website. If the expert

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**Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

- discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- f) The last day for dispositive motions to be heard is **12/24/2019**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - g) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **12/28/2019**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - h) A Pretrial Conference is set for **1/14/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - i) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points



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and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **1/27/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) In view of the parties' representation that they are involved in active settlement negotiations, the Court will not at this time order the parties to attend formal mediation.

The Court will prepare and enter a Scheduling Order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Gardens Regional Hospital and

Represented By  
Samuel R Maizel  
John A Moe

**United States Bankruptcy Court  
Central District of California  
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**CONT... Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

**Defendant(s):**

Mediclean, Inc.

Pro Se

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Jeffrey I Golden

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**Wednesday, January 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-13016 Sharp Edge Enterprises**

**Chapter 7**

Adv#: 2:18-01163 Leslie v. Reihanian et al

**#1.00** Hearing  
RE: [68] Motion to strike and Motion for Sanctions and Request to Strike  
Defendants' Answers

FR. 12-11-19

Docket 68

**Tentative Ruling:**

1/14/2020

For the reasons set forth below, the Motion is DENIED without prejudice. However, on its own motion, the Court strikes the Purported Substitution from the record. Aver shall remain counsel of record for Leon unless and until he obtains authorization from the Court to withdraw. Defendants shall respond to the Requests for Admission by no later than **February 14, 2020**.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Sanctions and Request to Strike Defendants' Answers (the "Motion") [Doc. No. 68]
- 2) Opposition to "Motion for Sanctions and Request to Strike Defendants' Answers" (the "Opposition") [Doc. No. 70]
- 3) Trustee's Reply to Opposition to Motion for Sanctions and Request to Strike Defendants' Answers (the "Reply") [Doc. No. 74]

**I. Facts and Summary of Pleadings**

**A. Background**

Sharp Edge Enterprises (the "Debtor") filed a voluntary Chapter 7 petition on March 13, 2017 (the "Petition Date"). On August 22, 2018, the Chapter 7 Trustee (the "Trustee") filed a *First Amended Complaint: (1) For Breach of Oral Contract; (2) For Turnover of Property to the Estate; (3) Common Counts: Open Book Account; (4) Common Counts: Account Stated; and (5) To Avoid and Recover Fraudulent Transfers* (the "Complaint") [Doc. No. 10] against Leon Reihanian ("Leon") and

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**Chapter 7**

Abraham Reihanian, as trustee of the Abraham Reinhanian and Nosrad Yahid Revocable Trust (UAD July 18, 2011) (“Abraham,” and together with Leon, the “Defendants”) [Note 1].

On April 23, 2019, upon the motion of the Trustee, the Court entered an order (1) finding that Abraham was not competent to represent himself in this proceeding and (2) appointing Leon as Abraham’s guardian ad litem. Doc. No. 44. On June 26, 2019, the Court denied the Trustee’s motion for a pre-judgment writ of attachment against Leon’s assets. Doc. No. 61.

On September 20, 2019, Leon’s counsel, Raymond H. Aver, filed a *Substitution of Attorney* form (the “Purported Substitution”) [Doc. No. 67]. The Purported Substitution states that “Leon Reihanian, In Pro Per,” is substituting in for Aver. The language on the form in which the new attorney is required to affirm that he or she is admitted in this district is crossed out.

On October 4, 2019, the Trustee served written discovery upon the Defendants at the following addresses:

Leon Reihanian, In Pro Per  
825 South Vail Avenue  
Montebello, CA 90640

Abraham Reihanian  
c/o Leon Reihanian, Guardian Ad Litem  
825 South Vail Avenue  
Montebello, CA 90640

The above address is the address set forth on both the Purported Substitution and Leon’s Answer to the Complaint, which was filed on August 26, 2019. Doc. No. 66. The written discovery that the Trustee mailed to this address was returned to sender.

The Trustee contacted Aver to obtain the Defendants’ current contact information, but did not receive an address different from that set forth on the Purported Substitution and Leon’s Answer. Kim Decl. [Doc. No. 68] at ¶ 68.

**B. Summary the Motion**

The Trustee seeks entry of an order (1) striking the Answers of both Defendants and (2) sanctioning Defendants and Aver in the amount of \$9,730. The Trustee makes the following arguments and representations in support of the Motion:

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**Chapter 7**

The filing of the Purported Substitution was a violation of the Local Bankruptcy Rules. To withdraw from representation, Aver was required to seek court authorization. Sanctions are warranted based on this violation, as well as the fact that Aver has failed to provide Defendants' current contact information. Absent Defendants' contact information, the Trustee cannot serve written discovery and cannot prosecute the case.

The Trustee contacted Aver on October 4, 17, and 22 in an attempt to obtain Defendants' current contact information. Aver did not furnish current contact information in response to the Trustee's requests. Kim Decl. at ¶ 3.

**C. Summary of Aver's Declaration in Opposition to the Motion**

Aver filed a declaration in opposition to the Motion which may be summarized as follows:

The Trustee should have served the written discovery upon Defendants at the following address, which Leon provided in a deposition conducted on June 6, 2018:

408 North Palm Avenue  
Beverly Hills, CA 90210

The address Leon provided in his deposition remains his current address. Neither Aver nor Leon is to blame for the Trustee's failure to properly serve the written discovery.

**D. Summary of the Trustee's Reply**

The Trustee makes the following arguments in reply to Aver's declaration:

Before the Motion was filed, Aver repeatedly ignored the Trustee's requests for Defendants' current address. Had Aver responded to these requests, the Motion would have been unnecessary.

It was reasonable for the Trustee to assume that the address set forth in the Purported Substitution was Leon's current address. The Purported Substitution was filed months after Leon's deposition.

There has been no response to the written discovery, which the Trustee served upon Aver on October 22 and 25, 2019. At a minimum, the Requests for Admissions

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should be deemed admitted.

Finally, the hearing on the Motion was continued based on discussions with the Trustee and Leonardo Drubach, who stated that he was in the process of being retained to represent Leon. The continuance was sought based upon an understanding that Drubach would engage in good faith settlement discussions with the Trustee. However, the Trustee never received any substantive response to settlement offers, and was informed on January 8, 2020, that Drubach would not represent Leon. This is indicative of Leon's overall conduct of delay and unwillingness to take this action seriously.

## **II. Findings and Conclusions**

### **A. The Court *Sua Sponte* Strikes the Purported Substitution from the Record**

Local Bankruptcy Rule ("LBR") 2091-1 requires an attorney to obtain leave of court to withdraw from representation, unless a new attorney agrees to serve as substitute counsel. The "Substitution of Attorney" form is intended to be used when a client decides to hire a different attorney. It is not meant for situations such as the present case, in which the attorney wishes to withdraw and leave the client to proceed *in pro se*. LBR 2091-1(b) makes clear the proper use of the "Substitution of Attorney" form; that proper use is further reinforced by the form itself, which requires that the substituting attorney identify the "new attorney."

Here, Aver filed the Purported Substitution to circumvent LBR 2091-1's requirement that he obtain leave of Court to withdraw from representing Leon. Aver should have filed a motion seeking authorization to withdraw from representation.

On its own motion, the Court strikes the Purported Substitution from the record. Unless and until he obtains authorization to withdraw, Aver remains counsel of record for Leon.

### **B. The Trustee's Request to Strike the Answers is Denied Without Prejudice**

The Trustee's request to strike the Answers filed by Leon and Abraham amounts to a case dispositive sanction. Under the circumstances, the imposition of a case dispositive sanction would be too extreme a remedy.

To impose case dispositive sanctions, the Court is "required to consider whether the ... noncompliance involved willfulness, fault, or bad faith, and also to consider the availability of lesser sanctions." *R & R Sails*, 673 F.3d at 1247 (internal citations omitted). When imposing case-dispositive sanctions, the Court must consider the following factors:

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**Chapter 7**

- 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 who has litigated diligently;
- 4) the public policy favoring the disposition of cases on their merits; and
- 5) the availability of less drastic sanctions.

*Moneymaker v. CoBEN (In re Eisen)*, 31 F.3d 1447, 1451 (9th Cir. 1994); *see also Hester v. Vision Airlines, Inc.*, 687 F.3d 1162, 1169 (9th Cir. 2012) (applying the *Eisen* factors to determine whether it was appropriate for a court to strike a pleading and enter default).

There are three sub-parts to the fifth factor, the availability of less drastic sanctions: "whether the court has considered lesser sanctions, whether it tried them, and whether it warned the recalcitrant party about the possibility of case-dispositive sanctions." *Connecticut Gen. Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d 1091, 1096 (9th Cir. 2007). The application of these factors is not mechanical; instead, the factors provide the Court "with a way to think about what to do, not a set of conditions precedent for sanctions or a script that the [Court] must follow." *Id.*

Aver's improper conduct consists of attempting to withdraw from representation without leave of Court, and failing to continue to represent Leon. It is possible that lesser sanctions may remediate this improper conduct. Aver is **ORDERED** to continue representing Leon unless and until he obtains leave to withdraw. Aver's attempted abuse of the withdrawal process, combined with his failure to promptly communicate with the Trustee, has caused significant delay in this action. Given these facts, the Court will not look with favor upon any motion to withdraw.

Striking the Answers or deeming the Requests for Admissions admitted would punish Defendants for Aver's improper conduct. As a result of Aver's improper conduct, the Trustee did not have Defendants' correct address, which resulted in Defendants not receiving actual notice of the Requests for Admission. The Court cannot find that Defendants have engaged in the type of willful bad-faith conduct necessary to support what would amount to a case-dispositive sanction.

Defendants, with the assistance of their counsel, shall respond to the Requests for Admission by no later than **February 14, 2020**.

**C. The Trustee's Request for Monetary Sanctions is Denied Without Prejudice**

The Trustee's request for monetary sanctions against Defendants and Aver, in the

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amount of \$9,730, is denied without prejudice as procedurally improper. LBR 9020-1 specifies the procedure for seeking contempt sanctions. Specifically, the party seeking sanctions must apply to the Court for issuance of an order requiring the alleged contemnor to show cause why he or she should not be held in contempt. The alleged contemnor must be provided the opportunity to object to issuance of an order to show cause. As one court has explained:

Obtaining an order to show cause requires a demonstration of facts that, if not rebutted, could be sufficient to warrant an order of contempt. Courts should be cautious when authorizing contempt proceedings. Orders to show cause should not issue merely because someone requests one.

Contempt is serious business that nobody takes lightly. The mere existence of an order to show cause suggests that the court has made a preliminary determination that an order of contempt is a realistic possibility.

*Costa v. Welch (In re Costa)*, 172 B.R. 954, 963 (Bankr. E.D. Cal. 1994).

Here, the Trustee failed to obtain an order to show cause as required by LBR 9020-1. Therefore, it is inappropriate for the Court to award the Trustee monetary sanctions.

**D. The Litigation Deadlines Previously Ordered Are Extended**

The delays resulting from Aver's conduct requires the Court to extend the litigation deadlines previously ordered. Otherwise, through no fault of his own, the Trustee would be unable to obtain discovery prior to the discovery cutoff deadline. The following litigation deadlines shall apply:

- 1) The last day to amend pleadings and/or join other parties is **2/13/2020**.
- 2) The last day to disclose expert witnesses and expert witness reports is **5/26/2020**.
- 3) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **6/25/2020**.
- 4) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **7/14/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff



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**Sharp Edge Enterprises**

**Chapter 7**

date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)

- 5) The last day for dispositive motions to be heard is **7/21/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- 6) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **7/25/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- 7) A Pretrial Conference is set for **8/11/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- 8) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - a) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - b) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal

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**Sharp Edge Enterprises**

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authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- c) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - d) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- 9) Trial is set for the week of **8/24/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

### **III. Conclusion**

Based upon the foregoing, the Motion is DENIED without prejudice. On its own motion, the Court strikes the Purported Substitution from the record. Aver shall remain counsel of record for Leon unless and until he obtains authorization from the Court to withdraw. Defendants shall respond to the Requests for Admission by no later than **February 14, 2020**.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

#### **Note 1**

Given names are used to distinguish family members with the same surname. No disrespect is intended.

**Party Information**

**United States Bankruptcy Court  
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**CONT... Sharp Edge Enterprises**

**Chapter 7**

**Debtor(s):**

Sharp Edge Enterprises

Represented By  
Peter A Davidson

**Defendant(s):**

Leon Reihanian

Represented By  
Raymond H. Aver

DOES 1-20, inclusive

Pro Se

Abraham Reihanian, as Trustee of

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Christian T Kim  
James A Dumas Jr

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Christian T Kim  
James A Dumas Jr

**United States Bankruptcy Court  
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**Wednesday, January 15, 2020**

**Hearing Room 1575**

10:00 AM

**2:18-22144 Hakop Jack Aivazian**

**Chapter 7**

**#2.00** Hearing re [101] Objection to Claim #1 by Claimant American Express National Bank in the amount of \$5130.00

fr. 9-4-19

Docket 101

**Tentative Ruling:**

1/14/2020

For the reasons set forth below, Debtor's objections to Claim Nos. 1, 7, 8, and 9 are SUSTAINED, and these claims are hereby DISALLOWED.

**Pleadings Filed and Reviewed**

1. Objection to Claim #1 ("Objection No. 1") [Doc. No. 101]
2. Objection to Claim #7 ("Objection No. 7") [Doc. No. 102]
3. Objection to Claim #8 ("Objection No. 8") [Doc. No. 103]
4. Objection to Claim #9 ("Objection No. 9") [Doc. No. 104]
5. Order Continuing Hearings on Debtor's Objections to Proofs of Claim Nos. 1,7,8 & 9 [Doc. No. 122]
6. Trustee's Notice of Motion and Motion to Approve Compromise With Hakop Jack Aivazian [Doc. No. 130]
7. Order Granting Trustee's Notice of Motion and Motion to Approve Compromise With Hakop Jack Aivazian [Doc. No. 137]
8. Status Report Re: Standing of Debtor to Object to Claim Nos. 1,7,8 and 9 (the "Status Report") [Doc. No. 139]
9. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Hakop Jack Aivazian (the "Debtor") filed a voluntary Chapter 11 petition on October 16, 2018. On January 17, 2019, the Court entered an order converting the case to a case under Chapter 7 [Doc. No. 31]. Shortly thereafter, Brad Krasnoff was

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**CONT... Hakop Jack Aivazian**

**Chapter 7**

appointed to serve as the Chapter 7 Trustee (the "Trustee") and continues to serve in that capacity. To date, there are twelve proofs of claim filed. On July 21 and July 22, 2019, the Debtor filed objections to Claim No. 1 [Doc. No. 101], Claim No. 7 [Doc. No. 102], Claim No. 8 [Doc. No. 103], and Claim No. 9 [Doc. No. 104] (collectively, the "Claim Objections"). The Debtor seeks an order disallowing Claim Nos. 1, 7, 8, and 9 (collectively, the "Claims") in their entirety on the grounds summarized below.

**A. Objection to Claim No. 1**

On October 31, 2018, American Express National Bank ("AmEx") filed Proof of Claim No. 1 ("Claim No. 1") asserting an unsecured claim of \$5,130 for credit card debt. In support of the Claim, AmEx attached an account statement dated April 28, 2010. Debtor alleges that Claim # 1 is barred by the applicable California 4-year statute of limitations set forth in California Code of Civil Procedure ("CCP") § 337. The Debtor states that the last activity on this account was the last payment he made in 2010, which is well beyond the 4-year statute of limitations.

**B. Objection to Claim No. 7**

On December 13, 2018, AmEx filed Proof of Claim No. 7 ("Claim No. 7") asserting an unsecured claim of \$1,469.12 for credit card debt. In support of the Claim, AmEx attached an account statement dated July 8, 2010. Debtor alleges that Claim # 7 is barred by the applicable California 4-year statute of limitations set forth in CCP § 337. The Debtor states that the last activity on this account was the last payment he made in 2010, which is well beyond the 4-year statute of limitations.

**C. Objection to Claim No. 8**

On December 14, 2018, AmEx filed Proof of Claim No. 8 ("Claim No. 8") asserting an unsecured claim of \$2,046.58 for credit card debt. In support of the Claim, AmEx attached an account statement dated July 7, 2010. Debtor alleges that Claim # 8 is barred by the applicable California 4-year statute of limitations set forth in CCP § 337. The Debtor states that the last activity on this account was the last payment he made in 2010, which is well beyond the 4-year statute of limitations.

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**Hakop Jack Aivazian**

**Chapter 7**

D. Objection to Claim No. 9

On December 14, 2018, AmEx filed Proof of Claim No. 9 ("Claim No. 9") asserting an unsecured claim of \$2,149.63 for credit card debt. In support of the Claim, AmEx attached an account statement dated June 18, 2010. Debtor alleges that Claim # 9 is barred by the applicable California 4-year statute of limitations set forth in CCP § 337. The Debtor states that the last activity on this account was the last payment he made in 2010, which is well beyond the 4-year statute of limitations.

The Claim Objections were initially set to be heard on September 4, 2019, but at that time, the Court could not determine that Debtor had standing to object to the Claims as Debtor had failed to prove that there would be a surplus in this case or that the Claims would be nondischargeable. Therefore, the Court continued the hearing to the present date to give Debtor an opportunity to address the issue of standing (the "Continuance Order") [Doc. No. 122].

**Summary of Status Report**

The Debtor submitted an omnibus status report (the "Status Report") on January 7, 2020 in response to the Court's concerns. The submission was untimely. The Status Report is supported by the one-page declaration of Debtor's counsel, Guy R. Bayley, who attached therein copies of the Court's order and tentative ruling approving the Trustee's § 9019 motion. Counsel recounts that following approval of the Trustee's compromise, Debtor expects a substantial cash out of approximately \$150,000 stemming from the refinance of the Woodbury Property that was abandoned to the Debtor [**Note 1**]. According to counsel, Debtor intends to apply excess loan proceeds to cure arrears against the Oxford Property. Counsel states that Debtor does not have significant unsecured debts.

Although not included in the Status Report, the Court reviewed the compromise between the Trustee and the Debtor (the "Settlement Agreement") [Doc. No. 130-1], pursuant to which, the the Woodbury Property shall be abandoned to the Debtor in exchange of \$162,103.05 (the "Compromise Sum") paid to the estate. Settlement Agreement at 2. As set forth in the Settlement Agreement, the Compromise Sum will be funded from the refinance of the Woodbury Property. *Id.* The Court approved the Settlement Agreement on December 2, 2019 [Doc. No. 137].

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The Claim Objections were not previously opposed, and as of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

As a preliminary matter, the Court notes that the Status Report was not in compliance with the Continuance Order as it was filed after the deadline of December 27, 2019. Nevertheless, the Status Report's tardy filing was not prejudicial to any interested party as the Claim Objections remain unopposed. Therefore, the Court will overlook filing deficiencies for the purposes of this tentative ruling.

### **A. Standing Issues**

Generally, a chapter 7 debtor does not have standing to object to claims because the debtor has no interest in the distribution of assets of the estate and therefore, is not an "aggrieved person." *Lona*, 393 B.R. at 4. However, there are two recognized exceptions to the proposition that a chapter 7 debtor lacks standing to object to a creditor's proof of claim: (1) when disallowance of the claim would create a surplus case, with the excess amounts payable to the debtor; and (2) where the claim at issue would not be dischargeable. *In re Cherne*, 514 B.R. 616, 621 (Bankr. D. Idaho 2014) (citing *Wellman v. Ziino*, 378 B.R. 416 n.5 (B.A.P. 9th Cir. 2007); *Menick v. Hoffman*, 205 F.2d 365 (9th Cir. 1953)). The burden is on the debtor to provide sufficient evidence that disallowance of the contested claim will produce a surplus distribution to the debtor. *In re Walker*, 356 B.R. 834, 847 (Bankr. S.D. Fla. 2006) (citing *In re Cult Awareness Network, Inc.*, 151 F.3d 605, 608 (7th Cir. 1998)).

Because there are no outstanding nondischargeability actions, the threshold issue is whether there will be a surplus in this case, creating standing for the Debtor to object to the Claims. Having reviewed the Status Report and the Settlement Agreement [Doc. No. 130-1], it is clear to the Court that Debtor's refinance of the Woodbury Property will generate estate assets totaling \$162,103.05. Because unsecured claims total approximately \$18,698.70 (inclusive of the Claims), there will be an estimated \$143,404.35 left over to pay administrative fees and costs and priority claims of \$1,741.40. See Claims Register. Based on the foregoing, the Court anticipates that Debtor will have an interest in surplus funds, which will be impacted by the allowance or disallowance of the Claims. In sum, the Debtor has standing to litigate the Claim Objections.

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**B. The Claim Objections are SUSTAINED in full**

Under 11 U.S.C. § 502(a), a claim is deemed allowed unless a party in interest objects. The term "party in interest" is not defined in the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, but courts have held that standing in a bankruptcy context requires an "aggrieved person" who is directly and adversely affected pecuniarily by an order of the bankruptcy court. *In re Lona*, 393 B.R. 1, 3 (Bankr. N.D. Cal. 2008) (citing *Fondiller v. Robertson (In re Fondiller)*, 707 F.2d 441, 442-43 (9th Cir. 1983)).

Title 11 U.S.C. § 502 provides that claims should be allowed "except to the extent that such claim is unenforceable against the debtor . . . under any . . . applicable law for a reason other than because such claim is contingent or unmatured." CCP § 337 provides that any action to recover "upon any contract, obligation or liability founded upon an instrument in writing" must be brought within four years. Debtor objects to Claims 1, 7-9 on the grounds that the Claims are barred by the statute of limitations. For the reasons set forth below, the objections are SUSTAINED in full.

1. Objection No. 1 is SUSTAINED, and Claim No. 1 is DISALLOWED.

AmEx filed as evidence of its claim an account statement dated April 28, 2010 indicating that the last transaction date was October of 2009, nine years before the bankruptcy petition was filed. *See* Claim No. 1. The Court finds that this claim arises from credit card debt. Credit card agreements and debts are governed by CCP § 337(1). *See* 3 Witkin, Cal. Proc. 5th (2008) Actions, § 508. CCP § 337(1) states that the statute of limitations for an action to recover upon such debts is four years. Here, there is no evidence that AmEx has taken any action to recover upon the debt in the last nine years. Claim No. 1 is time-barred under CCP § 337(1). The Debtor's objection to the claim is SUSTAINED and Claim No. 1 is DISALLOWED in its entirety.

2. Objection No. 7 is SUSTAINED, and Claim No. 7 is DISALLOWED.

AmEx filed as evidence of its claim an account statement dated July 8, 2010 indicating that the last transaction date was October of 2009, nine years before the bankruptcy petition was filed. *See* Claim No. 7. The Court finds that this claim arises from credit card debt. Credit card agreements and debts are governed by CCP §



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337(1). *See* 3 Witkin, Cal. Proc. 5th (2008) Actions, § 508. CCP § 337(1) states that the statute of limitations for an action to recover upon such debts is four years. Here, there is no evidence that AmEx has taken any action to recover upon the debt in the last nine years. Claim No. 7 is time-barred under CCP § 337(1). The Debtor's objection to the claim is SUSTAINED and Claim No. 7 is DISALLOWED in its entirety.

3. Objection No. 8 is SUSTAINED, and Claim No. 8 is DISALLOWED.

AmEx filed as evidence of its claim an account statement dated July 7, 2010 indicating that the last transaction date was October of 2009, nine years before the bankruptcy petition was filed. *See* Claim No. 8. The Court finds that this claim arises from credit card debt. Credit card agreements and debts are governed by CCP § 337(1). *See* 3 Witkin, Cal. Proc. 5th (2008) Actions, § 508. CCP § 337(1) states that the statute of limitations for an action to recover upon such debts is four years. Here, there is no evidence that AmEx has taken any action to recover upon the debt in the last nine years. Claim No. 8 is time-barred under CCP § 337(1). The Debtor's objection to the claim is SUSTAINED and Claim No. 8 is DISALLOWED in its entirety.

4. Objection No. 9 is SUSTAINED, and Claim No. 9 is DISALLOWED.

AmEx filed as evidence of its claim an account statement dated June 18, 2010 indicating that the last transaction date was October of 2009, nine years before the bankruptcy petition was filed. *See* Claim No. 9. The Court finds that this claim arises from credit card debt. Credit card agreements and debts are governed by CCP § 337(1). *See* 3 Witkin, Cal. Proc. 5th (2008) Actions, § 508. CCP § 337(1) states that the statute of limitations for an action to recover upon such debts is four years. Here, there is no evidence that AmEx has taken any action to recover upon the debt in the last nine years. Claim No. 9 is time-barred under CCP § 337(1). The Debtor's objection to the claim is SUSTAINED and Claim No. 9 is DISALLOWED in its entirety.

### **III. Conclusion**

Based on the foregoing, the Claim Objections are SUSTAINED in full, and the Claims are DISALLOWED in their entirety.

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Debtor is directed to lodge a conforming proposed order, incorporating the tentative ruling by reference, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Among Debtor's various property interests listed in his schedules are two real estate parcels located at 1728-1730-1734 E. Woodbury Avenue, Pasadena, California 91104 (the "Woodbury Property") and 1257 North Oxford Avenue (the "Oxford Property").

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

**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel

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**2:18-22144 Hakop Jack Aivazian**

**Chapter 7**

**#3.00** Hearing re [104] Objection to Claim #9 by Claimant AMERICAN EXPRESS NATIONAL BANK. in the amount of \$ 2149.63

fr. 9-4-19

Docket 104

**Tentative Ruling:**

1/14/2020

See Cal. No. 2, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel

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**2:18-22144 Hakop Jack Aivazian**

**Chapter 7**

**#4.00** Hearing re [102] Objection to Claim #7 by Claimant AMERICAN EXPRESS NATIONAL BANK. in the amount of \$ 1469.12

fr. 9-4-19

Docket 102

**Tentative Ruling:**

1/14/2020

See Cal. No. 2, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel

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**2:18-22144 Hakop Jack Aivazian**

**Chapter 7**

**#5.00** Hearing re [103] Objection to Claim #8 by Claimant AMERICAN EXPRESS NATIONAL BANK. in the amount of \$ 2046.58

fr. 9-4-19

Docket 103

**Tentative Ruling:**

1/14/2020

See Cal. No. 2, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel

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2:19-13751 Pius M. Wawire

Chapter 7

#6.00 APPLICANT: ELISSA D. MILLER, Trustee

Hearing re [38] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

1/14/2020

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$1,550 [*see* Doc. No. 37]

Total Expenses: \$119.75 [*see id.*]

Other: \$0.23 [**Note 1**]

**Note 1:** Bond payments owed to International Sureties, Ltd.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Pius M. Wawire

Represented By  
Eliza Ghanooni

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**CONT... Pius M. Wawire**

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**Trustee(s):**

Elissa Miller (TR)

Pro Se

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**2:18-13731 Samuel Antonio Acevedo and Lucy Acevedo**

**Chapter 11**

**#7.00** Hearing re [102] Confirmation of the Debtors' Chapter 11 Plan of Reorganization

FR. 7-17-19; 9-4-19; 10-16-19

Docket 0

**Tentative Ruling:**

1/14/2020

For the reasons set forth below, CONTINUE HEARING to April 15, 2020 at 10:00 a.m.

**Pleadings Filed and Reviewed**

1. Order Re: Notice of Motion and Motion for Order Determining Value of Collateral [Doc. No. 45] (the "Rental Property Valuation Order")
2. Order Re: Notice of Motion and Motion for Order Determining Value of Collateral [Doc. No. 50] (the "Vehicle Valuation Order")
3. Stipulation by United States Trustee and Debtors for Continuing Compliance in resolution of United States Trustee's Motion under 11 U.S.C. Sec. 1112(b)(1) to Convert, Dismiss, or Appoint a Chapter 11 Trustee with an Order Directing Payment of Quarterly Fees and for Judgment Thereon and Request to Vacate Hearing [Doc. No. 60]
4. Individual Debtor's [sic] Disclosure Statement in Support of Plan of Reorganization [Doc. No. 65] (the "Disclosure Statement")
5. Individual Debtor's [sic] Chapter 11 Plan of Reorganization [Doc. No. 66] (the "Original Plan")
6. Individual Debtors' First Amended Disclosure Statement in Support of First Amended Plan of Reorganization [Doc. No. 82] (the "First Amended Disclosure Statement")
7. Individual Debtor's [sic] Chapter 11 First Amended Plan of Reorganization [Doc. No. 83] (the "First Amended Plan")
8. Debtors' Notice of Hearing on Adequacy of First Amended Disclosure Statement



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- Describing Debtors' First Amended Chapter 11 Plan of Reorganization Dated July 26, 2019 [Doc. No. 84]
9. Individual Debtor's [sic] Chapter 11 Second Amended Plan of Reorganization [Doc. No. 97] (the "Second Amended Plan")
  10. Debtors' Notice of Hearing on Adequacy of Second Amended Disclosure Statement Describing Debtors' Second Amended Chapter 11 Plan of Reorganization [Doc. No. 98]
  11. Individual Debtors' Second Amended Disclosure Statement in Support of Second Amended Plan of Reorganization [Doc. No. 96] (the "Second Amended Disclosure Statement")
  12. Individual Debtors' Third Amended Disclosure Statement in Support of Second Amended Plan of Reorganization [Doc. No. 101] (the "Third Amended Disclosure Statement")
  13. Order Approving Amended Disclosure Statement and Setting Hearing on Confirmation of Plan [Doc. No. 102]
  14. Proof of Service Re Solicitation Package [Doc. No. 104]
  15. Debtors-in-Possession Motion to Confirm Chapter 11 Plan of Reorganization (the "Confirmation Brief") [Doc. No. 107]
  16. Objection to Confirmation of Chapter 11 Plan [Doc. No. 108] (the "Objection")
  17. As of the preparation of this tentative ruling, no reply is on file

### **I. Facts and Summary of Pleadings**

Debtors-in-possession, Samuel Antonio Acevedo and Lucy Acevedo (together, the "Debtors"), filed this voluntary Chapter 11 case on April 3, 2018 (the "Petition Date"). The Debtors' primary asset consists of a rental property located at 6220 Palladio Lane, Fontana, CA 92336 (the "Rental Property"), which they rent out for an additional \$3,100 in monthly income [*see* Doc. No. 85]. The Debtors sought bankruptcy protection after experiencing several years of financial hardship precipitated by Mr. Acevedo's unexpected loss of employment. In addition, the Debtors' fell behind on mortgage payments on the Rental Property after depleting their savings. Both Debtors are now employed and generate regular monthly income.

On March 13, 2019, the Debtors obtained an order granting their motion to value the Rental Property at \$435,000 for purposes of plan confirmation [Doc. No. 45] (the "Rental Property Valuation Order"). On March 19, 2019, the Debtors obtained an order granting their motion to value their 2016 Honda Accord (the "Vehicle") at

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\$15,977 for purposes of plan confirmation, which resulted in the bifurcation of American Honda Finance's claim into a secured claim of \$15,977 and an unsecured claim of \$3,731.60 [Doc. No. 50] (the "Vehicle Valuation Order").

The Debtors submitted the First Amended Disclosure Statement on July 26, 2019, and subsequently, the Second Amended Disclosure Statement on September 26, 2019, which were both disapproved by the Court for reasons stated in separate tentative rulings [Doc. Nos. 89 and 100]. Subject to the Court's proposed amendments, the Debtors' Third Amended Disclosure Statement was approved on October 24, 2019 [Doc. No. 102] (the "Scheduling Order"), at which time the Court also established deadlines concerning solicitation and confirmation of Debtors' chapter 11 plan.

The Debtors now seek approval of their *Second Amended Chapter 11 Plan of Reorganization* (hereinafter, the "Plan"). A summary of the Debtors' Plan is set forth below.

**Summary of the Plan**

*Administrative Claims*

The Debtors anticipate that administrative fees for professionals will be approximately \$6,000 on the Effective Date, consisting of \$4,000 for remaining chapter 11 fees and \$2,000 for administrative fees owed to former counsel [**Note 1**]. The Debtors propose to pay all administrative claims in full, on the Effective Date, from available cash on hand and with the assistance of a one-time \$7,000 family contribution payment.

*Priority Tax Claims*

As set forth in the Third Amended Disclosure Statement, the Debtors propose to pay the Internal Revenue Service's (the "IRS") claim of \$1,681, in full, plus 6% interest, within five years from the Petition Date, by making equal monthly installments of \$32.50 beginning on the Effective Date. However, the Plan provides otherwise: priority tax "[p]ayments will be made quarterly, due on the first day of the quarter starting on the first such date after the Effective Date..." See Plan at 2, Art. I, Section C.

*Class 5(a) – Wells Fargo Bank, National Association ("Wells Fargo") – Deemed to*

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*Reject (No Ballot Cast)*

Class 5(a) consists of the secured claim of Wells Fargo. Wells Fargo holds a first-priority deed of trust against the Rental Property securing debt in the approximate amount of \$382,478.36. The Debtors propose to pay Wells Fargo's claim in full by making monthly installment payments of \$2,053.23 over a thirty-year period, at a 5% interest rate per annum. Wells Fargo's claim is impaired, and Wells Fargo was entitled to vote on the Plan, but did not cast a ballot. Therefore, Wells Fargo is deemed to reject the Plan.

*Class 5(b) – American Honda Finance Corporation ("Honda") – Deemed to Reject (No Ballot Cast)*

Class 5(b) consists of Honda's secured claim. Honda holds a perfected security interest in the Vehicle. Pursuant to the Vehicle Valuation Order, Honda holds a secured claim of \$15,977 and an unsecured claim of \$3,731.60. Accordingly, the Debtors propose to pay Honda's secured claim in full, plus 6.75% interest, by making monthly installment payments of \$314 over a five-year period. Honda's claim is impaired, and Honda was entitled to vote on the Plan, but did not cast a ballot. Therefore, Honda is deemed to reject the Plan.

*Class 6(b) – General Unsecured Claims – Deemed to Reject (No Ballot Cast)*

This class consists of all allowed general unsecured claims, which the Debtors estimate hold aggregate claims in the amount of \$29,776.01. The Debtors propose to pay this class 70% of their claims, without interest, over a 5-year period by making equal pro-rata monthly installment payments totaling \$347.39. This class is impaired, it was entitled to vote on the Plan, but no claimant in this class casted a ballot. Therefore, Class 6(b) is deemed to reject the Plan.

In fact, as of the preparation of this tentative ruling, the Debtors did not receive any ballots for or against the Plan.

**Summary of the Debtors' Confirmation Brief**

Debtors concede that their Plan does not satisfy all mandatory requirements under § 1129 because no impaired class voted in favor of the Plan. With the exception of this requirement, the Debtors posit that the Plan complies with §1129 in all other respects. The Court previously expressed concerns that the Plan would not satisfy the absolute priority rule, absent creditor approval. Accordingly, Debtors propose to pay

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general unsecured creditors only 70% of their claims, while retaining their interest in the Rental Property. Debtors contend the absolute priority rule is inapplicable here because each unsecured creditor is poised to receive more through the Plan than in chapter 7 liquidation, and no such creditor objected to the Plan. Therefore, Debtors assert that cram down is unnecessary. For the reasons set forth above, the Debtors "hope" to have the necessary votes to confirm the Plan. In the alternative, the Debtors request more time to amend the Plan to fully pay off only those unsecured creditors who filed a proof of claim because Debtors contend, without any admissible proof or specificity, that some scheduled unsecured claims are no longer valid or have been "charged off." See Declaration of Lionel E. Giron, ¶ 7.

**Summary of Wells Fargo's Objection**

On December 31, 2019, Wells Fargo filed a timely objection against the Debtors' Plan (the "Objection"). The Objection states three issues with Debtors' Plan. First, Wells Fargo argues that the Plan is not fair and equitable because it fails to properly compensate Wells Fargo's claim pursuant to §§ 1129(b)(1) and (b)(2)(A)(ii). Accordingly, as a non-consenting secured creditor, Debtors' proposal to pay Wells Fargo's claim at an interest rate of 5% inappropriately accounts for Debtors' risk of nonpayment. Wells Fargo relies on the Supreme Court's opinion in *Till v. SCS Credit Corp. (In re Till)*, 541 U.S. 465, 478-79 (2004) in support that the proposed interest rate will not adequately compensate its claim. As determined in *Till*, an appropriate rate of interest payable to non-consenting creditors is determined by reference to the national prime rate, subject to adjustments based on the risk of future default. Given that the national prime rate was approximately 4.75% on December 31, 2019, Debtors' proposed 5% interest rate provides a 25-point increase over the prime rate, an insufficient adjustment according to Wells Fargo. Therefore, Wells Fargo argues that it will not receive at least the allowed value of its claim under the Plan. Additionally, Wells Fargo notes that the Plan fails to specify whether the Rental Property loan will remain in an escrow account, or if it will be removed from escrow, subject to Wells Fargo's demand for proof of Debtors' ability pay taxes and maintain insurance. Last, Wells Fargo argues that the Plan also fails to comply with § 1129(a)(10) as no impaired class has accepted Debtors' Plan.

In light of the foregoing, Wells Fargo asks that the Court deny the Plan in its entirety, or in the alternative, that the Plan be amended in accordance with the Objection.

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The Debtors have not submitted a response or reply as of the preparation of this tentative ruling.

## **II. Findings of Fact and Conclusions of Law**

### **A. Issues Preventing Confirmation of the Debtors' Plan**

#### *i. No Class Submitted a Vote*

Classes 5(a), 5(b), and 6(b) are all impaired, entitled to vote, but no class casted a ballot (the "Non-Voting Classes"). Therefore, the Plan does not satisfy the requirement under §1129(a)(10). Debtors propose to amend their Plan to avoid paying certain unsecured creditors, thereby ensuring that all unsecured creditors who filed a proof of claim receive 100% of their claims. Debtors' proposed course of action will not remedy the deficiency under §1129(a)(10) because, even if Class 6(b) is no longer impaired, Debtors cannot guarantee that either of the two other impaired classes will vote in favor of the Plan. If Debtors do not receive any votes in favor of their amended plan, they will again fail to comply with § 1129(a)(10).

Moreover, the Debtors claim that the Plan satisfies § 1129(a)(8). Section 1129(a)(8) provides that each class of claims or interests must either accept the plan or not be impaired under the plan. Debtors assert that their Plan satisfies this requirement because administrative claims are not impaired under the Plan, and therefore, at least "these classes" are deemed to have accepted the Plan. Confirmation Brief at 11. Debtors' interpretation is misguided because administrative claims are treated as "nonclassified claims" and not entitled to vote on plan confirmations. 11 U.S.C. §§ 1126(c) & (d); Ahart, et al., Cal. Practice Guide: Bankruptcy Ch. 11-H (The Rutter Group 2019), ¶ 11:1197.) Therefore, Debtors' Plan also fails to comply with § 1129(a)(8).

The Court recognizes the split of authority regarding whether a non-voting, non-objecting, class of creditors is deemed to have accepted or rejected a plan. *See Bell Road Inv. Co. v. M. Long Arabians (In re M. Long Arabians)*, 103 B.R. 211 (B.A.P. 9th Cir. 1989) (members of a class must affirmatively vote in favor of the plan in order for that class to have accepted plan treatment); *compare Heins v. Ruti-*

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*Sweetwater, Inc. (In re Ruti-Sweetwater, Inc.)*, 863 F.2d 1263 (10th Cir. 1988) (Non-voting, non-objecting creditor who is a member of a class that casts no votes is deemed to have accepted the plan of reorganization for purposes of section 1129(a)(8) and 1129(b)).

Plan proponents have dealt with the problem of a non-voting class by including prominent language in the Plan, Disclosure Statement and Plan Ballot providing that creditors who did not vote would be deemed to accept the plan. *See, e.g., In re Adelpia Communications*, 368 B.R. 140, 260-62 (Bankr. S.D.N.Y. 2007) ("Section 7.3 of the Plan adopts a presumption that '[i]f no holders of Claims or Equity Interests eligible to vote in a particular Class vote to accept or reject the Plan, the Plan shall be deemed accepted by the holders of such Claims or Equity Interests in such Class.'... I overruled the ACC Bondholder Group's objection, and uphold the Plan presumption with respect to the non-voting creditors in these classes.").

Unfortunately, the Debtors did not include any such language in the Plan, Disclosure Statement or Ballot. In fact, the Debtors' Ballot expressly stated that failure to return a timely ballot would result in the vote not being counted as "either an acceptance or rejection of the Plan." *See* Third Amended Disclosure Statement, Ex. D.

Therefore, the Court finds it appropriate to reopen voting and directs the Debtors to serve an amended plan and disclosure statement, and a supplemental notice to all creditors and file a proof of service evidencing the same by no later than **January 29, 2020**, that: (i) notes that such classes previously received copies of the Debtors' solicitation package and have failed to timely return a ballot; (ii) unambiguously states that the deadline to submit a ballot has been extended to **February 21, 2020**, (iii) notifies such classes that the failure to timely return a ballot by the February 21st deadline will be deemed acceptance of the amended Plan; and (iv) notifies creditors that additional copies of the amended solicitation package can be obtained by contacting Debtors' counsel.

In the event the Non-Voting Classes do not return ballots by the February 21, 2020 deadline, those classes will be deemed to have accepted the amended Plan.

*ii. Debtors' Proposed Treatment of Certain Unsecured Claims is Inadequate*

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and/or Unsupported**

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As stated in the Confirmation Brief, Debtors propose to avoid the claims of certain unsecured creditors. Debtors argue that these creditors will not receive any distribution under an amended plan on the basis that a) these claimants did not submit a proof of claim and/or b) Debtors assume that the balances on these claims have been excused, no longer exist, or have since been "charged off." *See* Confirmation Brief at 7. Debtors appear to argue that § 1123(b)(3) enables them to amend the Plan to exclude these unsecured creditors.

A claim or interest listed in the debtor's schedules as "undisputed," "unliquidated," and "noncontingent," and for which no objection is filed, is deemed "filed" and "allowed" in the amount scheduled. 11 U.S.C. § 1111(a) ("A proof of claim or interest is deemed filed...for any claim or interest that appears in the schedules filed under section 521(a)(1) or 1106(a)(2) ..."); FRBP 3003(c)(2). Here, the Debtors listed all of the unsecured claims disseminated in the Third Amended Disclosure Statement (*see* Exhibit C) in their *Schedule E/F* [Doc. No. 1]. None of these claims is identified as "contingent," "unliquidated," or "disputed." In addition, the Debtors have not formally objected to any specific claim. Aside from their uncorroborated speculation, the Debtors have not established that any unsecured claim is invalid. In sum, pursuant to § 1111(a), each unsecured claim listed in Exhibit C of the Disclosure Statement is deemed to be filed and allowed.

Debtors' argument to exclude payment to certain unsecured creditors pursuant to § 1123(b)(3) is not adequately briefed. Section 1123(b)(3) governs the treatment of claims or interests of the debtor or the estate, which allows the plan to provide for (A) the settlement or adjustment of any claim or interest belonging to the debtor or the estate, or (B) the retention and enforcement of any claim or interest by either the debtor, the trustee, or a representative of the estate specifically appointed for that purpose. If it is Debtors' position that § 1123(b)(3) authorizes them to object to and disallow claims through a plan confirmation motion, then Debtors have not proffered any legal authority establishing their contention. To that extent, the Court finds Debtors' arguments unpersuasive.

If Debtors intend to pursue this course of action, they must submit a supplemental brief addressing this issue. Notwithstanding the foregoing, if the general unsecured

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class fails to submit a timely ballot, it will be deemed to accept the Plan, and this issue will be moot.

***iii. Additional Issues Not Addressed by Debtors***

The Court further finds that the Confirmation Brief fails to adequately address the following issues:

1. The Debtors have not submitted evidence establishing that the 5% interest rate proposed for Class 5(a) appropriately considers the risk of nonpayment sustained by Wells Fargo. If Debtors cannot demonstrate in good faith that a 5% interest rate will result in Wells Fargo receiving the present value of its claim, they may amend their Plan to pay Wells Fargo's claim with a suitable rate of interest [**Note 2**]. However, if Class 5(a) fails to submit a timely ballot, it will be deemed to accept the Plan, and this issue will be moot.
2. The Court finds Wells Fargo's objection regarding the treatment of escrow on the Rental Property loan well founded. Given that this issue affects Debtors' distribution under the Plan regardless of Class 5(a)'s vote, Debtors shall specify the treatment of escrow in their amended Plan and Disclosure Statement.
3. Finally, the Debtors shall specify whether the payment of priority taxes will be on a monthly or quarterly basis in their amended Plan and Disclosure Statement.

**III. Conclusion**

For the reasons set forth above, the Court is not in a position to confirm the Debtors' Plan at this time. The hearing is CONTINUED to April 15, 2020 at 10:00 a.m. The continued hearing is subject to the following deadlines:

1. By no later than **January 24, 2020**, and prior to disseminating the amended voting package, the Debtors are directed to file an amended disclosure statement and chapter 11 plan that addresses the issues discussed above.
2. As instructed above, the Debtors shall serve the amended plan, disclosure statement, and ballot, notice of the continued hearing date, and a supplemental notice to all creditors and file a proof of service evidencing



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**Samuel Antonio Acevedo and Lucy Acevedo**

**Chapter 11**

the same by no later than **January 29, 2020**.

3. Any objections to the amended Plan must be filed and served by no later than **March 13, 2020**.
4. The Debtors must file and serve a supplemental confirmation brief by no later than **March 20, 2020**, if a) an objection is filed or b) as specified in Section II.A.ii of this tentative ruling. Otherwise, the Debtors are not be required to submit a supplemental confirmation brief.
5. The Debtors must file a plan ballot summary no later than **March 20, 2020**.

After the hearing, the Court will prepare a scheduling order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Notwithstanding Debtors' estimated administrative expenses, the Court notes that Debtors' counsel applied for interim fees and expenses in the sum of \$14,028.50 [Doc. No. 70]. Counsel's fees and costs were approved on an interim basis on July 19, 2019 [Doc. No. 79].

**Note 2:** At this stage, the Court finds that it is premature to determine whether Debtors' proposed interest rate on Wells Fargo's claim will result in that creditor receiving the present value of its claim.

**Party Information**

**Debtor(s):**

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

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Los Angeles  
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**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

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**Chapter 11**

**#8.00** Hearing  
RE: [3711] Application for Compensation for Milbank, Tweed, Hadley & McCloy,  
Creditor Comm. Atty, Period: 10/1/2019 to 10/31/2019, Fee: \$834,631.50,  
Expenses: \$26,353.55.

Docket 3711

**\*\*\* VACATED \*\*\* REASON: DUPLICATE OF NO. 12**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Rosa A Shirley

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#9.00** Hearing  
RE: [3711] Application for Compensation for Milbank, Tweed, Hadley & McCloy,  
Creditor Comm. Atty, Period: 10/1/2019 to 10/31/2019, Fee: \$834,631.50,  
Expenses: \$26,353.55.

Docket 3711

**\*\*\* VACATED \*\*\* REASON: DUPLICATE OF NO. 12**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Rosa A Shirley

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#10.00** HearingRE: [3831] Application for Compensation -[Application for Payment of Interim Fees and Expenses (POS Attached)]- for Jacob Nathan Rubin, Ombudsman Health, Period: 10/1/2018 to 11/30/2019, Fee: \$838,665.00, Expenses: \$3,414.97.

Docket 3831

**Tentative Ruling:**

1/14/2020

On October 25, 2018, the Court entered an *Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 661], and on October 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtor is authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On September 25, 2018, the Court entered an order directing the United States Trustee (the "UST") to appoint a Patient Care Ombudsman (the "PCO"). Doc. No. 283. On October 9, 2018, the Court entered an order approving the UST's appointment of Dr. Jacob Nathan Rubin, MD, FACC, as the PCO. Doc. No. 430. On November 2, 2018, the Court authorized Dr. Rubin to employ Dr. Tim Stacy, DNP, ACNP-BC as a consultant to assist him with the discharge of his duties. Doc. No. 753.

Pursuant to the procedures set forth in the Fee Procedures Order, the PCO has submitted fourteen Monthly Applications [Doc. Nos. 854, 1123, 1317, 1595, 1911, 2256, 2457, 2614, 2761, 2956, 3128, 3466, 3734, and 3827], none of which have been opposed.

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No objections to the PCO's *Application for Payment of Interim Fees and/or Expenses* (the "Application") [Doc. No. 3831] have been filed. Having reviewed the Application, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$838,665.00

Expenses: \$3,414.97

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

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**Chapter 11**

Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Rosa A Shirley

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#11.00 HearingRE: [3833] Application for Compensation -[Application for Payment of Interim Fees and Expenses (POS Attached)]- for Levene, Neale, Bender, Yoo & Brill L.L.P., Ombudsman Health, Period: 5/1/2019 to 11/30/2019, Fee: \$43,660.00, Expenses: \$598.25.

Docket 3833

**Tentative Ruling:**

1/14/2020

On October 25, 2018, the Court entered an *Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 661], and on October 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). [Note 1] Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtor is authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. [Note 2] The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On October 9, 2018, the Court entered an order appointing Jacob Nathan Rubin, MD as the patient care ombudsman (the "PCO") in these cases. Doc. No. 430. On November 2, 2018, the Court approved the PCO's application to employ LNBYB as its counsel. Doc. No. 751. For the fee period at issue, LNBYB has submitted fourteen Monthly Applications [Doc. Nos. 854, 1123, 1317, 1595, 1911, 2256, and 2457], none of which have been opposed. The Fee Procedures Order requires LNBYB to hold payments received from the Debtors in its trust account, until such time as the Court awards fees and costs to LNBYB in accordance with its Fee Applications.

No objections to LNBYB's *Application for Payment of Interim Fees and/or*



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*Expenses* (the "Application") [Doc. No. 3833] have been filed. Having reviewed the Application, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$43,660.00

Expenses: \$598.25

LNBYB is not required to hold any of the fees awarded above in its trust account. In addition, LNBYB is authorized to receive payment of previously approved but unpaid fees and costs in the amount \$10,729.90, also without any requirement to hold such fees in its trust account.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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

Verity Health System of California,

Represented By

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Los Angeles  
Judge Ernest Robles, Presiding  
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**Verity Health System of California, Inc.**

**Chapter 11**

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

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Central District of California  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#12.00** HearingRE: [3848] Application for Compensation for Milbank, Tweed, Hadley & McCloy, Creditor Comm. Atty, Period: 5/1/2019 to 8/31/2019, Fee: \$1,737,707.50, Expenses: \$16,974.39.

Docket 3848

**Tentative Ruling:**

1/14/2020

On October 25, 2018, the Court entered an *Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 661], and on October 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtor is authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 6, 2018, the Court entered an order authorizing the Official Committee of Unsecured Creditors (the "Committee") to retain Milbank LLP ("Milbank") as its counsel. Pursuant to the procedures set forth in the Fee Procedures Order, Milbank has submitted twelve Monthly Applications [Doc. Nos. 871, 872, 1177, 1420, 1679, 1975, 2271, 2469, 2635, 2816, 2990, and 3184], none of which have been opposed.

The Debtors filed a reservation of rights (the "Reservation of Rights") [Doc. No. 3896] with respect to the *Third Interim Application of Milbank LLP for Approval and Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred* (the "Application") [Doc. No. 3848]. The Debtors allege that the Committee,

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acting through its professionals Milbank and FTI (the "Committee Professionals"), has spent more than \$250,000 investigating and prosecuting claims against the Prepetition Secured Creditors (as defined in the Final DIP Order [Doc. No. 409]), in violation of the cap set forth in the Final DIP Order.

"Because interim awards are interlocutory and often require future adjustments, they are 'always subject to the court's reexamination and adjustment during the course of the case.'" *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 858 (9th Cir. 2004) (internal citation omitted). The ruling on the instant Application is without prejudice to the Debtors' ability to object at a later time to the fees awarded to the Committee Professionals. The Court makes no determination regarding the allegations set forth in the Reservation of Rights.

Other than the Reservation of Rights, no objections to the Application have been filed. Having reviewed the Application and the *Declaration of Michael Strollo* [Doc. No. 3850] filed in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$1,737,707.50

Expenses: \$16,974.39

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

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Los Angeles  
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**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Rosa A Shirley

**United States Bankruptcy Court  
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**Chapter 11**

**#13.00** HearingRE: [3849] Application for Compensation for FTI Consulting, Inc., Financial Advisor, Period: 5/1/2019 to 8/31/2019, Fee: \$755,524.00, Expenses: \$3,427.60.

Docket 3849

**Tentative Ruling:**

1/14/2020

On October 25, 2018, the Court entered an *Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 661], and on October 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). [Note 1] Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtor is authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. [Note 2] The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 14, 2018, the Court entered an order authorizing the Official Committee of Unsecured Creditors (the "Committee") to retain FTI Consulting, Inc. ("FTI") as its financial advisor. Pursuant to the procedures set forth in the Fee Procedures Order, FTI has submitted twelve Monthly Applications [Doc. Nos. 869, 870, 1176, 1419, 1677, 1952, 2272, 2470, 2636, 2817, 2989, and 3183], none of which have been opposed.

The Debtors filed a reservation of rights (the "Reservation of Rights") [Doc. No. 3896] with respect to the *Third Interim Application of FTI Consulting, Inc. for Approval and Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred* (the "Application") [Doc. No. 3849].

The Debtors allege that the Committee, acting through its professionals Milbank

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and FTI (the "Committee Professionals"), has spent more than \$250,000 investigating and prosecuting claims against the Prepetition Secured Creditors (as defined in the Final DIP Order [Doc. No. 409]), in violation of the cap set forth in the Final DIP Order.

"Because interim awards are interlocutory and often require future adjustments, they are 'always subject to the court's reexamination and adjustment during the course of the case.'" *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 858 (9th Cir. 2004) (internal citation omitted). The ruling on the instant Application is without prejudice to the Debtors' ability to object at a later time to the fees awarded to the Committee Professionals. The Court makes no determination regarding the allegations set forth in the Reservation of Rights.

Other than the Reservation of Rights, no objections to the Application have been filed. Having reviewed the Application and the *Declaration of Michael Strollo* [Doc. No. 3850] filed in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$755,524.00

Expenses: \$3,427.60

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

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**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Rosa A Shirley



**United States Bankruptcy Court  
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Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#14.00** HearingRE: [3852] Motion to Approve Compromise Under Rule 9019 Debtors' Notice and Motion to Approve Compromise Between Debtors and Hunt Spine Institute, Inc., Pursuant to Federal Rule of Bankruptcy Procedure 9019; Declaration of Richard G. Adcock in Support Thereof

Docket 3852

**Tentative Ruling:**

1/14/2020

For the reasons set forth below, the Motion is GRANTED in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice and Motion for Approval of Compromise Between Debtors and Hunt Spine Institute, Inc., Pursuant to Federal Rule of Bankruptcy Procedure 9019 (the "Motion") [Doc. No. 3852]
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 3846, 3847, 3851, 3852, and 3853 [Doc. No. 3895]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. On August 31, 2018, the Court entered an order granting the Debtors' motion for joint administration of the Debtors' Chapter 11 cases.

Debtors seek approval of a settlement agreement (the "Settlement Agreement") with Hunt Spine Institute, Inc. ("Hunt"). No opposition to the Motion is on file.

On July 5, 2017, Debtor Verity Medical Foundation ("VMF") entered into a *Professional Services Agreement* (the "PSA") with Hunt. Under the PSA, Hunt physicians must maintain a specified work relative value unit in order for Hunt to receive base compensation (the "Minimum Productivity Requirement").

On October 17, 2018, the Court entered an order approving the stipulated rejection of the PSA. Doc. No. 524.

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Hunt asserts a priority claim in the amount of \$270,467.16 for post-petition services rendered prior to rejection of the PSA, and a pre-petition claim in the amount of \$3,365,190.00, which includes damages arising from the rejection of the PSA (collectively, the "Hunt Claims"). The Debtors dispute the Hunt Claims and assert that Hunt did not comply with the PSA's Minimum Productivity Requirement. Hunt maintains that it did comply with the Minimum Productivity Requirement, and that the Debtors failed to properly measure the Minimum Productivity Requirement.

The material terms of the Settlement Agreement are as follows:

- 1) In full satisfaction of the Hunt Claims, Hunt shall be entitled to an allowed administrative expense claim in the amount of \$100,000, which shall be paid in full within ten days after the effective date of the Settlement Agreement.
- 2) Hunt and the Debtors shall exchange mutual releases.

## **II. Findings and Conclusions**

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Settlement Agreement is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

### *Probability of Success on the Merits and Complexity of the Litigation*

These factors weigh in favor of approving the Settlement Agreement. The outcome of the litigation is uncertain, and could potentially involve expert testimony regarding whether Hunt's practices satisfied the requirements of the PSA. Litigation

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would also be costly, as the PSA contains specialized terms, such as the "work relative value unit" used to calculate the Minimum Productivity Requirement. Adjudication of whether Hunt performed under the PSA would require examination of extensive billing records, and therefore would be time consuming.

The possibility that additional litigation might yield a result nominally more favorable to the estates cannot be ruled out. Yet any such result obtained through litigation would be a pyrrhic victory from the perspective of the estates and creditors, because the additional administrative costs associated with the litigation would on net leave the estates worse off.

*Difficulties to be Encountered in the Matter of Collection*

This factor weighs in favor of approving the Settlement Agreement. Hunt lost substantial income as a result of the termination of the PSA. Its ability to satisfy a judgment entered in favor of the Debtors is unknown.

*Paramount Interests of Creditors*

This factor weighs in favor of approving the Settlement Agreement. Neither the Committee nor any other creditors have objected to the Settlement Agreement.

*Likelihood of Success on the Merits*

This factor weighs in favor of approving the Settlement Agreement. As discussed, the Settlement Agreement resolves a number of complicated issues, and there is no assurance that the Debtors would prevail.

**III. Conclusion**

Based upon the foregoing, the Settlement Agreement is APPROVED and the Motion is GRANTED in its entirety. The Debtors shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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**CONT... Verity Health System of California, Inc.**

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**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Rosa A Shirley

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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#15.00 HearingRE: [3851] Motion to Extend Time Debtors' Notice of Motion and Fifth Motion for Entry of an Order Pursuant to Section 365(d)(4) of the Bankruptcy Code Extending the Time to Assume or Reject Unexpired Leases; Memorandum of Points and Authorities and Declaration of Richard Adcock in Support Thereof

Docket 3851

**Tentative Ruling:**

1/14/2020

For the reasons set forth below, the Motion is GRANTED and the Assumption/Rejection Deadline is extended to and including March 23, 2020.

**Pleadings Filed and Reviewed:**

- 1) Debtor's Notice of Motion and Fifth Motion for Entry of an Order Pursuant to § 365(d)(4) of the Bankruptcy Code Extending the Time to Assume or Reject Unexpired Leases (the "Motion") [Doc. No. 3851]
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 3846, 3847, 3851, 3852, and 3853 [Doc. No. 3895]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. On August 31, 2018, the Court entered an order granting the Debtors' motion for joint administration of the Debtors' Chapter 11 cases. Doc. No. 17.

Individual Debtors are parties to multiple real-property, non-residential leases necessary for the operation of the Debtors' business, including office and operational space (the "Leases"). On February 19, 2019, the Court extended the Debtors' deadline to assume or reject these unexpired leases (such deadline, the "Assumption/Rejection Deadline") by 90 days, to and including March 29, 2019. Doc. No. 1579. The Court subsequently granted additional motions to extend the Assumption/Rejection Deadline. *See* Doc. Nos. 2383, 2838, and 3566.

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**Chapter 11**

Debtors now move for an extension of the Assumption/Rejection Deadline from December 24, 2019, to and including March 23, 2020. Debtors state that the extension is necessary because the contemplated sale of the Debtors' remaining hospitals to Strategic Global Management did not close. Debtors state that they have not made a final determination regarding assumption or rejection of specific leases given the uncertainty surrounding the disposition of their remaining hospitals.

## **II. Findings and Conclusions**

Section 365(d)(4) provides:

(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

- (i) the date that is 120 days after the date of the order for relief; or
- (ii) the date of the entry of an order confirming a plan.

(B)

- (i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.
- (ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

"[T]he legislative purpose behind §365(d)(4) was to protect lessors from extended periods where the premises remained vacant and no rental payments made."

*Willamette Water Front Ltd. v. Victoria Station, Inc. (In re Victoria Station Inc.)*, 88 B.R. 231, 237 (B.A.P. 9th Cir. 1988), *aff'd*, 875 F.2d 1380 (9th Cir. 1989).

In its prior rulings extending the Assumption/Rejection deadline, the Court has deemed a Lessor's non-opposition to constitute "consent" for purposes of § 365(d)(4) (B)(ii). *See, e.g.*, Doc. No. 2760-1. The Court finds it appropriate to continue to deem the Lessor's non-opposition to constitute consent. Because the Debtors remain current on lease payments, this approach does not prejudice the Lessors. In addition, absent extension of the deadline, the Debtors will lack the flexibility necessary to allow them to assume and assign the leases to a future purchaser of one or more of the remaining

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hospitals. This would harm the estates by reducing the purchase price realized in connection with the disposition of the Debtors' assets.

The Lessors have received notice of the Motion and have not objected to the relief requested. The Assumption/Rejection Deadline is extended to and including **March 23, 2020**.

The Debtors shall submit an order incorporating this tentative ruling by reference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Rosa A Shirley

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#16.00** HearingRE: [110] Motion to Extend Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement Notice of Motion and Motion for Extension of Exclusivity Periods to File a Disclosure Statement and Plan, and Seek Acceptances of Plan of Reorganization; Declaration of Alan W. Forsley in Support with proof of service

Docket 110

**Tentative Ruling:**

1/14/2020

For the reasons set forth below, the Motion is GRANTED in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Extension of Exclusivity Periods to File a Disclosure Statement and Plan, and Seek Acceptances of Plan of Reorganization (the "Motion") [Doc. No. 110]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

Michael Bonert ("Michael") and Vivien Bonert ("Vivien," and together with Michael, the "Debtors") filed a voluntary Chapter 11 petition on September 12, 2019 (the "Petition Date"). Prior to the Petition Date, the Debtors operated a pie manufacturing company known as Bonert's Incorporated ("Bonerts"). In 2016, Bonerts ceased conducting business after its lender caused its assets to be sold through a federal receivership. Proceeds of the receivership sale were used to pay secured creditors, but were not sufficient to pay unsecured trade creditors, some of whom obtained unopposed judgments against Bonerts.

On August 13 and 14, 2019, Capitol Distribution Company, LLC ("Capitol"), Stratas Foods LLC ("Stratas"), Packaging Corporation of America, and Seneca Foods Corporation (collectively, the "Creditors") filed four collection actions (the "Collection Actions") against the Debtors, Bonerts, and LLCs wholly owned by the Debtors that were affiliates of Bonerts (the "Affiliates"). The Collection Actions allege, *inter alia*, that the Debtors operated the Affiliates and Bonerts as a single enterprise for the purpose of defeating the rights of creditors; that the Debtors



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**CONT... Michael Bonert and Vivien Bonert**

**Chapter 11**

misappropriated assets of Bonerts and the Affiliates; and that the Debtors are liable for trade debt incurred by Bonerts as its alter ego. Two of the Collection Actions were filed in the United States District Court for the Central District of California (the "District Court") and two of the Collection Actions were filed in the Los Angeles Superior Court (the "State Court").

Debtors sought bankruptcy protection for the purpose of having all alter-ego claims arising in connection with the Debtors' operation of Bonerts and the Affiliates adjudicated before the Bankruptcy Court. Pursuant to this objective, on September 13 and 16, 2019, the Debtors removed all four of the Collection Actions to the Bankruptcy Court.

On October 17, 2019, the Court approved stipulations remanding two of the Collection Actions to the District Court. Both stipulations were without prejudice to any party's right (1) to move for referral of the action back to the Bankruptcy Court or (2) to move for an injunction against the prosecution of the action. On January 13, 2020, the Court denied motions brought by Capitol and Stratas to remand two of the Collection Actions.

The Debtors move for entry of an order extending the exclusivity periods to file a Chapter 11 Plan and solicit acceptances thereof for four months, through and including May 12, 2020 (filing a plan) and July 13, 2020 (obtaining acceptances).

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Section 1121(b) gives the Debtor the exclusive right to file a plan during the first 120 days after the date of the order for relief. Section 1121(d) permits the Court to reduce or increase the exclusivity period "for cause." Section 1121 provides the bankruptcy court "maximum flexibility to suit various types of reorganization proceedings." *In re Public Service Company of New Hampshire*, 88 B.R. 521, 534 (Bankr. D.N.H. 1988).

The Court finds that cause exists to extend the exclusivity period as requested by the Debtors in the Motion. Claims in the approximate amount of \$4 million are predicated upon the assertion that the Debtors are alter-egos of other entities. Debtors intend to challenge these claims. The litigation over the allowability of the alter-ego claims will be complex. The Debtors will not be in a position to prepare a Disclosure Statement that discloses adequate information to creditors until greater clarity regarding the allowability of the alter-ego claims has been obtained.

The exclusivity period for the Debtors is extended through and including **May 12**,

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Los Angeles  
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**Chapter 11**

**2020** (for filing a plan) and **July 13, 2020** (for obtaining acceptances).

Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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Central District of California  
Los Angeles  
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11:00 AM

2:18-22958 Tahlequah Steel, Inc.

Chapter 7

#100.00 APPLICANT: JASON M RUND, Trustee

Hearing re [43] and [44] Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation

Docket 0

**Tentative Ruling:**

1/14/2020

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$2,000 [*see* Doc. No. 43]

Total Expenses: \$187.50 [*see id.*]

Other: \$800 [**Note 1**]

**Note 1:** Franchise Tax Board's claim was allowed as an administrative expense.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tahlequah Steel, Inc.

Represented By

**United States Bankruptcy Court  
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**CONT... Tahlequah Steel, Inc.**

**Chapter 7**

Steven B Lever

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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2:18-22958 Tahlequah Steel, Inc.

Chapter 7

#101.00 APPLICANT: HAHN FIFE & COMPANY, LLP, Accountant

Hearing re [43] and [44] Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation

Docket 0

**Tentative Ruling:**

1/14/2020

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

**Fees:** \$2,310 approved [*See* Doc. No. 41]

**Expenses:** \$249 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tahlequah Steel, Inc.

Represented By  
Steven B Lever

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
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**Chapter 7**

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**2:18-22958 Tahlequah Steel, Inc.**

**Chapter 7**

**#102.00 OTHER: FRANCHISE TAX BOARD**

Hearing re [43] and [44] Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation

Docket 0

**Tentative Ruling:**

1/14/2020

See Cal. No. 100, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Tahlequah Steel, Inc.

Represented By  
Steven B Lever

**Trustee(s):**

Jason M Rund (TR)

Pro Se

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

**2:20-10264 450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

**#103.00** Hearing  
RE: [5] Emergency Motion For Interim And Final Orders Authorizing Use Of  
Cash Collateral

Docket 5

**\*\*\* VACATED \*\*\* REASON: WILL BE HEARD AT 2:00 PM TODAY**

**Tentative Ruling:**

- NONE LISTED -

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

450 S. Western, LLC, a California

Represented By  
Aram Ordubegian  
Christopher K.S. Wong  
M Douglas Flahaut



**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
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11:00 AM

**2:20-10264 450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

**#104.00** Hearing

RE: [6] Emergency Motion For Order Directing Tenants To Pay Rent For Post-Petition Use And Occupancy to The Debtor

Docket 6

**\*\*\* VACATED \*\*\* REASON: WILL BE HEARD AT 2:00 PM TODAY**

**Tentative Ruling:**

- NONE LISTED -

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

450 S. Western, LLC, a California

Represented By

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
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**2:20-10264 450 S. Western, LLC, a California limited liability**

**Chapter 11**

**#200.00** Hearing  
RE: [5] Emergency Motion For Interim And Final Orders Authorizing Use Of  
Cash Collateral

Docket 5

**Tentative Ruling:**

1/14/2020

Subject to any opposition which may be presented at the hearing, the Court is prepared to authorize the Debtor to use cash collateral on an interim basis.

**Pleadings Filed and Reviewed:**

- 1) Emergency Motion for Interim and Final Orders Authorizing Use of Cash Collateral (the "Motion") [Doc. No. 5]
  - a) First Day Declaration of Richard J. Laski [Doc. No. 7]
  - b) Amended Order Setting Hearing on First Day Motions [Doc. No. 14]
  - c) Notice of Hearing [Doc. No. 20]
  - d) Declaration of Aylin Sookassians Re Notice of Emergency Hearings on Debtor's First Day Motions [Doc. No. 21]

**I. Facts and Summary of Pleadings**

On January 10, 2020 (the "Petition Date"), 450 S. Western, LLC (the "Debtor") filed a voluntary Chapter 11 petition.

The Debtor owns and operates a three-story, 80,316 square foot shopping center—commonly known as California Marketplace—located at the intersection of South Western Avenue and 5th Street. The shopping center serves the Los Angeles Korean community and contains 28 stores. As of the Petition Date, the shopping center had a 98% occupancy rate.

The Debtor sought bankruptcy protection primarily as the result of litigation with Admire Capital Lending, LLC ("Admire") and Belmont Two Investment Holdings, LLC ("Belmont"). On September 10, 2015, the Debtor entered into an unsecured promissory note with Belmont and Admire, in the principal amount of \$9.75 million (the "Note"). In litigation before the Los Angeles Superior Court, Belmont and

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CONT... **450 S. Western, LLC, a California limited liability**

**Chapter 11**

Admire assert a right to convert the Note to equity (the "Conversion Option"). The Debtor disputes the Conversion Option.

As of the Petition Date, the Debtor has secured debt in the estimated amount of approximately \$43 million, as follows:

- 1) G450 LLC—\$29,932,758.97
- 2) Pontis Capital, LLC—\$4,654,666.66
- 3) Five West Capital, LP—\$5,818,333.44
- 4) Evergreen Capital Asset—\$1,260,164.91
- 5) Los Angeles County Treasurer and Tax Collector—\$1,653,568.21
- 6) Los Angeles County Treasurer and Tax Collector—\$246,421.96

The Debtor seeks authorization to use cash collateral. The Debtor hopes to enter into a stipulation with G450 LLC authorizing the use of cash collateral. The Debtor proposes to make an adequate protection payment, in the amount of \$50,000, to G450 LLC during the week of January 26, 2020. Cash collateral will be used to fund payroll and payroll taxes, the salary of Chief Financial Officer Joshua Park, the fees of the Chief Restructuring Officer, and expenses for maintenance and utilities.

## **II. Findings and Conclusions**

Section 363(c)(2) requires court authorization for the use of cash collateral unless "each entity that has an interest in such cash collateral consents." In the Ninth Circuit, satisfaction of §363(c)(2)(A) requires the "affirmative express consent" of the secured creditor; "implied consent," resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368–69 (9th Cir. 1987). Absent affirmative express consent, the Debtors "may not use" cash collateral absent the Court's determination that the use is "in accordance with the provisions" of Section 363—that is, that the secured creditor's interest in the cash collateral is adequately protected. § 363(c)(2)(B) and (e).

A secured creditor's interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365 (1988).

Nothing in the record indicates that the California Marketplace, the Debtor's

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CONT... **450 S. Western, LLC, a California limited liability** Chapter 11

primary asset, is declining in value. The California Marketplace is 98% leased, and the bankruptcy was precipitated by litigation with Belmont and Admire, not operating losses. Based on the absence of evidence of declining value and the proposed adequate protection payment to G450, the Court is prepared to find that secured creditors with an interest in the Debtor's cash collateral are adequately protected. In addition, the use of cash collateral to maintain the California Marketplace's operations constitutes further adequate protection. *See In re Megan-Racine Associates, Inc.*, 202 B.R. 660, 663 (Bankr. S.D.N.Y. 1996) (concluding that "[a]s long as there was a continuous income stream being generated by the Debtor, the fact that the Debtor consumed a portion of those monies to operate and maintain the facility each month did not diminish the value of the [secured creditor's] interest in the [cash collateral]").

Cash collateral may not be used to pay the Debtor's proposed Chief Restructuring Officer (the "CRO") unless and until the Court approves the CRO's employment application. (A hearing on the employment application is set for February 4, 2020.)

The Court notes that the proposed cash collateral budget (the "Budget") provides for monthly payments of \$23,500 to be made to Joshua Park, the Debtor's Chief Financial Officer (the "CFO"). These payments constitute a significant portion of the Debtor's monthly expenditures, which are forecast to be between \$156,300 and \$192,200. It is not clear from the record whether Mr. Park is an insider. The Debtor should be prepared to justify the necessity of making these substantial payments to Mr. Park. Of course, if Mr. Park is an insider, he may be compensated only after the Debtor files a *Notice of Setting/Increasing of Insider Compensation* in accordance with Local Bankruptcy Rule 2014-1(a)(1).

The Court finds that the remainder of the expenditures proposed in the Budget are necessary to sustain the California Marketplace's operations. Without the ability to use cash collateral to sustain operations, the Debtor would be irreparably harmed.

A final hearing on the Motion shall take place on **February 19, 2020, at 10:00 a.m.** Opposition to final approval of the use of cash collateral shall be filed by no later than **February 5, 2020**. The Debtor's reply shall be filed by no later than **February 12, 2020**. By no later than **February 17, 2020**, the Debtor shall provide notice of the final hearing and shall file a proof of service so indicating.

**Party Information**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By

Aram Ordubegian

Christopher K.S. Wong

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

**450 S. Western, LLC, a California limited liabilit  
M Douglas Flahaut**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, January 15, 2020**

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**2:20-10264 450 S. Western, LLC, a California limited liability**

**Chapter 11**

**#201.00** Hearing  
RE: [6] Emergency Motion For Order Directing Tenants To Pay Rent For Post-Petition Use And Occupancy to The Debtor

Docket 6

**Tentative Ruling:**

1/14/2020

Subject to any opposition which may be presented at the hearing, the Court is prepared to enter an order directing that all post-petition rental payments be made to the Debtor.

**Pleadings Filed and Reviewed:**

- 1) Emergency Motion for Order Directing Tenants to Pay Rent for Post-Petition Use and Occupancy of the Debtor (the "Motion") [Doc. No. 6]
  - a) First Day Declaration of Richard J. Laski [Doc. No. 7]
  - b) Amended Order Setting Hearing on First Day Motions [Doc. No. 14]
  - c) Notice of Hearing [Doc. No. 20]
  - d) Declaration of Aylin Sookassians Re Notice of Emergency Hearings on Debtor's First Day Motions [Doc. No. 21]

**I. Facts and Summary of Pleadings**

On January 10, 2020 (the "Petition Date"), 450 S. Western, LLC (the "Debtor") filed a voluntary Chapter 11 petition.

The Debtor owns and operates a three-story, 80,316 square foot shopping center—commonly known as California Marketplace—located at the intersection of South Western Avenue and 5th Street. The shopping center serves the Los Angeles Korean community and contains 28 stores. As of the Petition Date, the shopping center had a 98% occupancy rate.

The Debtor moves for entry of an order directing tenants leasing space from the Debtor (the "Tenants") to make post-petition rental payments to "450 S. WESTERN, LLC as Debtor and Debtor-in-Possession," with such payments addressed to:

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**CONT... 450 S. Western, LLC, a California limited liability**

**Chapter 11**

450 S. Western LLC  
Attn: Richard Laski  
450 S. Western Ave., #201  
Los Angeles, CA 90020

The Debtor states that such an order is necessary because its bankruptcy filing may cause confusion for the Tenants, many of whom have no experience dealing with a landlord in bankruptcy.

## **II. Findings and Conclusions**

Rents accrued subsequent to the Petition Date are property of the estate. *See* § 541(a)(6) (providing that property of the estate includes "[p]roceeds, product, offspring, rents, or profits from property of the estate"). Section 542(a) requires any entity in possession of property of the estate to immediately turnover such property to the Debtor.

The Court is prepared to GRANT the Motion. Pursuant to §§ 541(a)(6) and 542(a), the Tenants are required to remit post-petition rental payments to the Debtor. Entry of an order specifically directing tenants as to the manner in which this is to be accomplished is necessary to avoid confusion and ensure the Debtor's continued access to rental income. The Debtor relies upon a steady stream of rental income to sustain its operations.

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

450 S. Western, LLC, a California

Represented By  
Aram Ordubegian  
Christopher K.S. Wong  
M Douglas Flahaut

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, January 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-21423 Ventura J. Vidal**

**Chapter 7**

**#1.00 Hearing**

RE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Chevrolet Traverse, VIN: 1GNERGKW2JJ159577 . (Wang, Jennifer)

Docket 12

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 1-27-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Ventura J. Vidal

Represented By  
David Lozano

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23620 Sylvia Mendoza**

**Chapter 7**

**#2.00** Hearing  
RE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Toyota Highlander, VIN: 5TDZZRFH5JS252212 . (Wang, Jennifer)

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 1-27-20 AT 10:00 A.M.**

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

**Debtor(s):**

Sylvia Mendoza

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

David M Goodrich (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-19631 Kelle Caaren Evans**

**Chapter 7**

**#1.00** Reaffirmation Hearing Date Set  
RE: [11] Reaffirmation Agreement Between Debtor and Northrop Grumman  
Federal Credit Union

Docket 11

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

**Debtor(s):**

Kelle Caaren Evans	Pro Se
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**Trustee(s):**

John J Menchaca (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-19631 Kelle Caaren Evans**

**Chapter 7**

**#2.00** Reaffirmation Hearing Date Set  
RE: [13] Reaffirmation Agreement Between Debtor and Northrop Grumman  
Federal Credit Union

Docket 13

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

**Debtor(s):**

Kelle Caaren Evans	Pro Se
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**Trustee(s):**

John J Menchaca (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1545 Calendar**

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-19989 Jacob Dean Hernandez**

**Chapter 7**

**#3.00** Reaffirmation Hearing Date Set  
RE: [12] Reaffirmation Agreement Between Debtor and JPMorgan Chase Bank,  
N.A. (Yabes, Gilbert)

Docket 12

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

**Debtor(s):**

Jacob Dean Hernandez

Represented By  
Curtis R Aijala

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-20180 Sergio Silva**

**Chapter 7**

**#4.00** Reaffirmation Hearing Date Set  
RE: [10] Pro se Reaffirmation Agreement Between Debtor and TD Auto Finance  
LLC

Docket 11

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

**Debtor(s):**

Sergio Silva

Represented By  
Benard C Udeozor

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-20237 Richard Atkinson**

**Chapter 7**

**#5.00** Reaffirmation Hearing Date Set  
RE: [17] Pro se Reaffirmation Agreement Between Debtor and American Credit  
Acceptance

Docket 17

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

Richard Atkinson	Pro Se
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**Trustee(s):**

Wesley H Avery (TR)	Pro Se
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**United States Bankruptcy Court  
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Los Angeles  
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Courtroom 1545 Calendar**

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-20719 Rodney Albert Hairston and Jemeker Machell Hairston**

**Chapter 7**

**#6.00** Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and Logix Federal  
Credit Union

Docket 9

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

**Debtor(s):**

Rodney Albert Hairston Pro Se

**Joint Debtor(s):**

Jemeker Machell Hairston Pro Se

**Trustee(s):**

Elissa Miller (TR) Pro Se

**United States Bankruptcy Court  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-20719 Rodney Albert Hairston and Jemeker Machell Hairston**

**Chapter 7**

**#7.00** Reaffirmation Hearing Date Set  
RE: [10] Pro se Reaffirmation Agreement Between Debtor and Logix Federal Credit Union

Docket 10

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

**Debtor(s):**

Rodney Albert Hairston Pro Se

**Joint Debtor(s):**

Jemeker Machell Hairston Pro Se

**Trustee(s):**

Elissa Miller (TR) Pro Se



**United States Bankruptcy Court  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-20719 Rodney Albert Hairston and Jemeker Machell Hairston**

**Chapter 7**

**#8.00** Reaffirmation Hearing Date Set  
RE: [13] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Rafferty, John)

Docket 13

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

**Debtor(s):**

Rodney Albert Hairston Pro Se

**Joint Debtor(s):**

Jemeker Machell Hairston Pro Se

**Trustee(s):**

Elissa Miller (TR) Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-20982 Sayra A Villatoro**

**Chapter 7**

**#9.00** Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and American Honda  
Finance Corporation

Docket 9

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

**Debtor(s):**

Sayra A Villatoro

Represented By  
Sevag Nigoghosian

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-20983 Tina Mouchekh Helwajian**

**Chapter 7**

**#10.00** Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and American Honda  
Finance Corporation

Docket 9

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

**Debtor(s):**

Tina Mouchekh Helwajian

Represented By  
Henrik Mosesi

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21024 Alma Carrillo**

**Chapter 7**

**#11.00** Reaffirmation Hearing Date Set  
RE: [11] Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance. a division of Capital One. N.A.

Docket 11

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

**Debtor(s):**

Alma Carrillo

Represented By  
Peter M Lively

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21457 Samuel Valentine Goldstein and Karlie Marie Goldstein**

**Chapter 7**

**#12.00** Reaffirmation Hearing Date Set  
RE: [15] Pro se Reaffirmation Agreement Between Debtor and Bank of the West

Docket 15

**Party Information**

**Debtor(s):**

Samuel Valentine Goldstein

Represented By  
Barry E Borowitz

**Joint Debtor(s):**

Karlie Marie Goldstein

Represented By  
Barry E Borowitz

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21498 Dina Maritza Delgado**

**Chapter 7**

**#13.00** Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and American Honda  
Finance Corporation

Docket 9

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

**Debtor(s):**

Dina Maritza Delgado

Represented By  
Marlin Branstetter

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21539 Leonard Herbert Levitsky**

**Chapter 7**

**#14.00** Reaffirmation Hearing Date Set  
RE: [11] Reaffirmation Agreement Between Debtor and Wells Fargo Auto

Docket 11

**Party Information**

**Debtor(s):**

Leonard Herbert Levitsky

Represented By  
Peter M Lively

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21548 Bakhsho Peter Petrosyan and Avenia S Petrosyan**

**Chapter 7**

**#15.00** Reaffirmation Hearing Date Set  
RE: [14] Pro se Reaffirmation Agreement Between Debtor and Nissan-Infiniti LT

Docket 14

**Party Information**

**Debtor(s):**

Bakhsho Peter Petrosyan

Represented By  
Gregory Grigoryants

**Joint Debtor(s):**

Avenia S Petrosyan

Represented By  
Gregory Grigoryants

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21567 Alexei Pak**

**Chapter 7**

**#16.00** Reaffirmation Hearing Date Set  
RE: [10] Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance. a division of Capital One. N.A.

Docket 10

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

**Debtor(s):**

Alexei Pak

Represented By  
Barry E Borowitz

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21639 Raul Nelson Bauer**

**Chapter 7**

**#17.00** Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and American Honda  
Finance Corporation

Docket 9

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

**Debtor(s):**

Raul Nelson Bauer

Represented By  
Daniel King

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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Central District of California  
Los Angeles  
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Wednesday, January 22, 2020

Hearing Room 1545

10:00 AM

2:19-21712 Willie E Montoya and Dora Gloria Montoya

Chapter 7

#18.00 Reaffirmation Hearing Date Set  
RE: [12] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Rafferty, John)

Docket 12

\*\*\* VACATED \*\*\* REASON: AMENDED REAFFIRMATION  
AGREEMENT FILED 11/25/19

**Party Information**

**Debtor(s):**

Willie E Montoya

Represented By  
Daniel King

**Joint Debtor(s):**

Dora Gloria Montoya

Represented By  
Daniel King

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21727 Roger W Seward and Lori L Seward**

**Chapter 7**

**#19.00** Reaffirmation Hearing Date Set  
RE: [12] Pro se Reaffirmation Agreement Between Debtor and Ford Motor  
Credit Company LLC (2015 Ford Fusion)

Docket 12

**Party Information**

**Debtor(s):**

Roger W Seward

Represented By  
David S Hagen

**Joint Debtor(s):**

Lori L Seward

Represented By  
David S Hagen

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21790 Lesbia Veronica Hernandez**

**Chapter 7**

**#20.00** Reaffirmation Hearing Date Set  
RE: [10] Pro se Reaffirmation Agreement Between Debtor and American Honda  
Finance Corporation

Docket 10

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

**Debtor(s):**

Lesbia Veronica Hernandez

Represented By  
Lisa F Collins-Williams

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21794 Emilia Ochoa Macias**

**Chapter 7**

**#21.00** Reaffirmation Hearing Date Set  
RE: [14] Pro se Reaffirmation Agreement Between Debtor and Ally Bank

Docket 14

**Party Information**

**Debtor(s):**

Emilia Ochoa Macias

Represented By  
Lisa F Collins-Williams

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21805 Sharon D. Bartlett**

**Chapter 7**

**#22.00** Reaffirmation Hearing Date Set  
RE: [15] Reaffirmation Agreement Between Debtor and Bridgecrest Credit  
Company, LLC

Docket 15

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

**Debtor(s):**

Sharon D. Bartlett

Represented By  
Mufthiha Sabaratnam

**Trustee(s):**

John J Menchaca (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21847 Oralía Flores**

**Chapter 7**

**#23.00** Reaffirmation Hearing Date Set  
RE: [8] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Rafferty, John)

Docket 8

**Party Information**

**Debtor(s):**

Oralía Flores

Represented By  
Raymond Perez

**Trustee(s):**

Elissa Miller (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22067 Jasmine Yijans Lopez**

**Chapter 7**

**#24.00** Reaffirmation Hearing Date Set  
RE: [8] Pro se Reaffirmation Agreement Between Debtor and Nuvision Credit Union

Docket 8

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

**Debtor(s):**

Jasmine Yijans Lopez

Represented By  
Philomena N Nzegge

**Trustee(s):**

Elissa Miller (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22161 Larissa Ramirez De Ruelas**

**Chapter 7**

**#25.00** Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and Nissan Motor  
Acceptance Corp (Rafferty, John)

Docket 9

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

**Debtor(s):**

Larissa Ramirez De Ruelas

Represented By  
Peter M Lively

**Trustee(s):**

John P Pringle (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22277 Erik Rios and Dalia Obdulia DelArenal**

**Chapter 7**

**#26.00** Reaffirmation Hearing Date Set  
RE: [19] Pro se Reaffirmation Agreement Between Debtor and VW Credit, Inc  
(Rafferty, John)

Docket 19

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

**Debtor(s):**

Erik Rios Pro Se

**Joint Debtor(s):**

Dalia Obdulia DelArenal Pro Se

**Trustee(s):**

Wesley H Avery (TR) Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22541 Carlos Contreras**

**Chapter 7**

**#27.00** Reaffirmation Hearing Date Set  
RE: [12] Pro se Reaffirmation Agreement Between Debtor and Toyota Motor  
Credit Corporation (Edelman, Craig)

Docket 12

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

**Debtor(s):**

Carlos Contreras

Represented By  
Michael H Colmenares

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22659 Luis Javier Mejia, Jr**

**Chapter 7**

**#28.00** Reaffirmation Hearing Date Set  
RE: [7] Pro se Reaffirmation Agreement Between Debtor and Toyota Motor  
Credit Corporation (Rafferty, John)

Docket 7

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

Luis Javier Mejia Jr	Pro Se
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**Trustee(s):**

Heide Kurtz (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1545 Calendar**

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-23426 Carlos Salas and Annette M. Salas**

**Chapter 7**

**#29.00** Reaffirmation Hearing Date Set  
RE: [24] Pro se Reaffirmation Agreement Between Debtor and Carmax Auto Finance

Docket 24

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

**Debtor(s):**

Carlos Salas

Represented By  
R Grace Rodriguez

**Joint Debtor(s):**

Annette M. Salas

Represented By  
R Grace Rodriguez

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-23426 Carlos Salas and Annette M. Salas**

**Chapter 7**

**#30.00** Reaffirmation Hearing Date Set  
RE: [25] Pro se Reaffirmation Agreement Between Debtor and Carmax Auto Finance

Docket 25

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

**Debtor(s):**

Carlos Salas

Represented By  
R Grace Rodriguez

**Joint Debtor(s):**

Annette M. Salas

Represented By  
R Grace Rodriguez

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, January 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-13131 Dwight Gregory Stephens**

**Chapter 11**

**#31.00** Post Confirmation Status Conference re chapter 11 plan  
fr. 8-21-19

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-14-20**

**Party Information**

**Debtor(s):**

Dwight Gregory Stephens

Represented By  
Marcus G Tiggs



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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-23137 Judy Ann Sisneros**

**Chapter 7**

**#32.00** Reaffirmation Hearing Date Set  
RE: [15] Pro se Reaffirmation Agreement Between Debtor and Mercedes-Benz  
Financial Services USA LLC

Docket 15

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

**Debtor(s):**

Judy Ann Sisneros

Pro Se

**Trustee(s):**

Jason M Rund (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22834 Frances Lynn Koppel**

**Chapter 7**

**#33.00** Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and American Honda  
Finance Corporation

Docket 9

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

**Debtor(s):**

Frances Lynn Koppel

Represented By  
Peter M Lively

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22210 Marquesha S Lynch**

**Chapter 7**

**#34.00** Reaffirmation Hearing Date Set  
RE: [8] Pro se Reaffirmation Agreement Between Debtor and American Honda  
Finance Corporation

Docket 8

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

**Debtor(s):**

Marquesha S Lynch

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22404 Maria Gloria Piz Lopez**

**Chapter 7**

**#35.00** Reaffirmation Hearing Date Set  
RE: [11] Pro se Reaffirmation Agreement Between Debtor and 21st Mortgage Corporation

Docket 11

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

**Debtor(s):**

Maria Gloria Piz Lopez

Represented By  
Leonard Pena

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-23189 Zuleima Molgado**

**Chapter 7**

**#36.00** Reaffirmation Hearing Date Set  
RE: [10] Pro se Reaffirmation Agreement Between Debtor and Toyota Motor  
Credit Corporation (Rafferty, John)

Docket 10

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

**Debtor(s):**

Zuleima Molgado	Pro Se
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**Trustee(s):**

John P Pringle (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1545 Calendar**

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22881 Violet Contreras**

**Chapter 7**

**#37.00** Reaffirmation Hearing Date Set  
RE: [8] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Rafferty, John)

Docket 8

**Party Information**

**Debtor(s):**

Violet Contreras

Represented By  
Michael D Luppi

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22881 Violet Contreras**

**Chapter 7**

**#38.00** Reaffirmation Hearing Date Set  
RE: [9] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Rafferty, John)

Docket 9

**Party Information**

**Debtor(s):**

Violet Contreras

Represented By  
Michael D Luppi

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22881 Violet Contreras**

**Chapter 7**

**#39.00** Reaffirmation Hearing Date Set  
RE: [9] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Rafferty, John)

Docket 9

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

**Debtor(s):**

Violet Contreras

Represented By  
Michael D Luppi

**Trustee(s):**

Heide Kurtz (TR)

Pro Se



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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-21621 Francisco J Gutierrez and Dina I. Gutierrez**

**Chapter 7**

**#40.00** Reaffirmation Hearing Date Set  
RE: [13] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Rafferty, John)

Docket 13

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

**Debtor(s):**

Francisco J Gutierrez

Represented By  
Jorge F Isla

**Joint Debtor(s):**

Dina I. Gutierrez

Represented By  
Jorge F Isla

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22573 Norma Angelica Perez**

**Chapter 7**

**#41.00** Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and American Honda  
Finance Corporation

Docket 9

**Party Information**

**Debtor(s):**

Norma Angelica Perez

Represented By  
Michael H Colmenares

**Trustee(s):**

David M Goodrich (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22457 Melissa A Snee**

**Chapter 7**

**#42.00** Reaffirmation Hearing Date Set  
RE: [24] Reaffirmation Agreement Between Debtor and

Docket 24

**Party Information**

**Debtor(s):**

Melissa A Snee

Pro Se

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22668 Lydia C Gutierrez**

**Chapter 7**

**#43.00** Reaffirmation Hearing Date Set  
RE: [15] Pro se Reaffirmation Agreement Between Debtor and Toyota Motor  
Credit Corporation (Rafferty, John)

Docket 15

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

Lydia C Gutierrez	Pro Se
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**Trustee(s):**

Sam S Leslie (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1545 Calendar**

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22861 Morena Guadalupe Posada**

**Chapter 7**

**#44.00** Reaffirmation Hearing Date Set  
RE: [10] Reaffirmation Agreement Between Debtor and Bank of America, N.A.

Docket 10

**Party Information**

**Debtor(s):**

Morena Guadalupe Posada

Represented By  
Michael H Colmenares

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-22949 Kayla Marie Sammons**

**Chapter 7**

**#45.00** Reaffirmation Hearing Date Set  
RE: [11] Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance. a division of Capital One. N.A.

Docket 11

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

Kayla Marie Sammons

Represented By  
Barry E Borowitz

**Trustee(s):**

John J Menchaca (TR)

Pro Se

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

**Wednesday, January 22, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-23585 Michael W Alexander**

**Chapter 7**

**#46.00** Reaffirmation Hearing Date Set  
RE: [8] Reaffirmation Agreement Between Debtor and ONEMAIN

Docket 8

**Party Information**

**Debtor(s):**

Michael W Alexander

Represented By  
Julie J Villalobos

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-25508 Lempa Roofing Inc**

**Chapter 7**

Adv#: 2:18-01328 Gonzalez v. Home Depot Product Authority, LLC et al

**#1.00 Trial Date Set**

RE: [9] Amended Complaint - First Amended Complaint for: (1) Avoidance and Recovery of Fraudulent Transfers; (2) Avoidance and Recovery of Preferential Transfers; (3) Avoidance and Recovery of Post-Petition Transfers; and (4) Preservation of Recovered Transfers for Benefit of Debtors Estate; [11 U.S.C. § 544 and California Civil Code § 3439 et. seq. and 11 U.S.C. §§ 547, 548, 549 and 550] - by Anthony A Friedman on behalf of Rosendo Gonzalez against CITIBANK, N.A., Home Depot Credit Services, Home Depot U.S.A., Inc.. (RE: related document(s)1 Adversary case 2:18-ap-01328. Complaint by Rosendo Gonzalez against Home Depot Product Authority, LLC, The Home Depot, Inc., Home Depot Credit Services, Home Depot U.S.A., Inc.. (Charge To Estate). - Complaint for (1) Avoidance and Recovery of Fraudulent Transfers; (2) Avoidance and Recovery of Preferential Transfers; (3) Avoidance and Recovery of Post-Petition Transfers; and (4) Preservation of Recovered Transfers for Benefit of Debtor's Estate [11 U.S.C. § 544 and California Civil Code § 3439 et. seq. and 11 U.S.C. §§ 547, 548, 549 and 550] - Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) filed by Plaintiff Rosendo Gonzalez). (Friedman, Anthony)

fr: 8-26-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 1-3-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lempa Roofing Inc

Represented By  
Barbara J Craig

**Defendant(s):**

Home Depot Product Authority, LLC

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Lempa Roofing Inc**

**Chapter 7**

The Home Depot, Inc. Pro Se

Home Depot Credit Services Pro Se

Home Depot U.S.A., Inc. Pro Se

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Anthony A Friedman

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Anthony A Friedman

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-12677 Green Jane Inc**

**Chapter 7**

Adv#: 2:19-01061 Rosendo Gonzalez, Chapter 7 Trustee v. TCG Assets, Inc., a Colorado

**#2.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01061. Complaint by Rosendo Gonzalez, Chapter 7 Trustee against TCG Assets, Inc., a Colorado corporation, TCG International Holdings, Inc., a Florida corporation, Michael B. Citron, an individual, Kenneth R. Morris, an individual, Law Office of Kenneth R. Morris LLC, a Colorado limited liability company, The Ulzheimer Group LLC, a Georgia limited liability, John Ulzheimer, an individual, Nicholas Moffat, an individual. (Charge To Estate). Complaint for 1. Avoidance of Transfers Pursuant to 11 U.S.C. § 544; 2. Avoidance of Avoidable Transfers Pursuant to 11 U.S.C. § 548; 3. Recovery on Account of Avoided Transfers Pursuant to 11 U.S.C. § 550(a); 4. Turnover of Funds of Estate Pursuant to 11 U.S.C. § 542; and 5. Breach of Fiduciary Duty 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)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Melissinos, C)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Green Jane Inc

Represented By  
Philip H Stillman

**Defendant(s):**

TCG Assets, Inc., a Colorado

Pro Se

TCG International Holdings, Inc., a

Pro Se

Michael B. Citron, an individual

Pro Se

Kenneth R. Morris, an individual

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Green Jane Inc Chapter 7**

Law Office of Kenneth R. Morris Pro Se

The Ulzheimer Group LLC, a Pro Se

John Ulzheimer, an individual Pro Se

Nicholas Moffat, an individual Pro Se

**Plaintiff(s):**

Rosendo Gonzalez, Chapter 7

Represented By  
C John M Melissinos

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-19286 Carnaval de Autos**

**Chapter 7**

Adv#: 2:18-01455 Goodrich v. Premier Auto Credit, a California corporation et a

**#3.00** Trial Date Set

RE: [1] Adversary case 2:18-ap-01455. Complaint by David M Goodrich against Premier Auto Credit, a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)) (Nachimson, Benjamin)

fr. 4-16-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9/27/19**

**Tentative Ruling:**

- NONE LISTED -

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

Carnaval de Autos

Represented By  
Eric Bensamochan

**Defendant(s):**

Premier Auto Credit, a California

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

David M Goodrich

Represented By  
Benjamin Nachimson

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Benjamin Nachimson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-11795 Alana Gershfeld**

**Chapter 7**

Adv#: 2:19-01052 Dye v. Khasin et al

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01052. Complaint by Carolyn A Dye against Maria Khasin, Larry A. Khasin, M & L Living Trust. (Charge To Estate).  
Complaint: (1) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. §§ 544 And 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; And,(3) Automatic Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551  
Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Gonzalez, Rosendo)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-27-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Alana Gershfeld

Represented By  
Alla Tenina

**Defendant(s):**

Maria Khasin

Pro Se

Larry A. Khasin

Pro Se

M & L Living Trust

Pro Se

**Plaintiff(s):**

Carolyn A Dye

Represented By  
Rosendo Gonzalez

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Rosendo Gonzalez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

Adv#: 2:18-01260 Amin v. Emein

**#5.00** Trial Date Set RE: [21] Amended Complaint 2nd Amended by Michael N Berke on behalf of Joseph Amin against Kami Emein. (Berke, Michael)

fr: 7-29-19, 9-30-19

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-25-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Defendant(s):**

Kami Emein

Represented By  
TJ Fox

**Plaintiff(s):**

Joseph Amin

Represented By  
Michael N Berke

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-17990 OBI Probiotic Soda LLC**

**Chapter 7**

Adv#: 2:19-01097 Goodrich v. Phillips et al

**#6.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01097. Complaint by David M Goodrich against Paul Phillips, Jeff Bonyun, Scott Strasser, Soames Floweree, Eion Hu, Yongjae Kim, Kevin Barenblat, Jeffrey Rhodes, OBI Acquisition, LLC, a Delaware limited liability company, OBI Soda, LLC, a Delaware limited liability company, MB Growth Advisors Corporation, a Nevada corporation. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(81 (Subordination of claim or interest)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Bagdanov, Jessica)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 1-9-20**

**Tentative Ruling:**

- NONE LISTED -

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

OBI Probiotic Soda LLC	Pro Se
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**Defendant(s):**

Paul Phillips	Pro Se
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Jeff Bonyun	Pro Se
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Scott Strasser	Pro Se
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Soames Floweree	Pro Se
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Eion Hu	Pro Se
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Yongjae Kim	Pro Se
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Kevin Barenblat	Pro Se
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Jeffrey Rhodes	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... OBI Probiotic Soda LLC Chapter 7**

OBI Acquisition, LLC, a Delaware Pro Se

OBI Soda, LLC, a Delaware limited Pro Se

MB Growth Advisors Corporation, a Pro Se

DOES 1-25 Pro Se

**Plaintiff(s):**

David M Goodrich

Represented By  
Jessica L Bagdanov

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Steven T Gubner  
Jessica L Bagdanov



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20111 Jeremy Wyatt LeClair**

**Chapter 7**

Adv#: 2:18-01425 Cortes v. LeClair

**#7.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01425. Complaint by Alvaro Cortes against Jeremy Wyatt LeClair. false pretenses, false representation, actual fraud)),(11 (Recovery of money/property - 542 turnover of property)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Weissman, I)

fr. 5-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-15-19**

**Tentative Ruling:**

- NONE LISTED -

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

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Defendant(s):**

Jeremy Wyatt LeClair

Pro Se

**Plaintiff(s):**

Alvaro Cortes

Represented By  
I Donald Weissman

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-21250 Thomas Ernesto Merino**

**Chapter 7**

Adv#: 2:18-01460 Foreman v. Merino

**#8.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01460. Complaint by Star Rae Foreman against Thomas Ernesto Merino . 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)) (Del Mundo, Wilfredo) Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo). Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo).

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-24-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Thomas Ernesto Merino

Represented By

Kourosh M Pourmorady

**Defendant(s):**

Thomas Ernesto Merino

Pro Se

**Plaintiff(s):**

Star Rae Foreman

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-21480 Rosa Huong Duong**

**Chapter 7**

Adv#: 2:19-01048 Miller, Chapter 7 Trustee v. Mai et al

**#9.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01048. Complaint by Elissa D Miller, Chapter 7 Trustee against Mik H Mai, DLMRT Corporation Inc., a California corporation, Rosa Huong Duong, Pier Duong. (Charge To Estate). Complaint For (1) Avoidance and Recovery of Fraudulent Conveyance Pursuant to 11 U.S.C. §§ 544, 548, and 550, (2) Alter Ego, and (3) Conspiracy to Commit Fraudulent Transfer Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT ENTERED 9-24-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Rosa Huong Duong

Represented By  
Barry E Borowitz

**Defendant(s):**

Mik H Mai

Pro Se

DLMRT Corporation Inc., a

Pro Se

Rosa Huong Duong

Pro Se

Pier Duong

Pro Se

**Plaintiff(s):**

Elissa D Miller, Chapter 7 Trustee

Represented By  
Steven Werth

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
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Los Angeles  
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**CONT... Rosa Huong Duong**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-22393 Sharon R Williams**

**Chapter 7**

Adv#: 2:19-01050 Miller v. Hancox

**#10.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01050. Complaint by Elissa D. Miller against Donnell Hancox. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(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))) (Simons, Larry)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Sharon R Williams

Pro Se

**Defendant(s):**

Donnell Hancox

Pro Se

**Plaintiff(s):**

Elissa D. Miller

Represented By  
Larry D Simons

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
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**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-22630 Fabricio Mejia**

**Chapter 7**

Adv#: 2:19-01024 Amy's Pastry. Inc. v. Mejia et al

**#11.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01024. Complaint by Amy's Pastry. Inc. against Fabricio Mejia, Ana Gloria Mejia. 2, & 3) Nature of Suit: (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Bensamochan, Eric)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 8/30/19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Fabricio Mejia

Represented By  
Jennifer Ann Aragon

**Defendant(s):**

Fabricio Mejia

Pro Se

Ana Gloria Mejia

Pro Se

**Joint Debtor(s):**

Ana Gloria Mejia

Represented By  
Jennifer Ann Aragon

**Plaintiff(s):**

Amy's Pastry. Inc.

Represented By  
Eric Bensamochan

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

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**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-23944 Yean Hee Kim**

**Chapter 7**

Adv#: 2:19-01058 Jeong v. Kim et al

**#12.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01058. Complaint by Younkyung Jeong against Yean Hee Kim. false pretenses, false representation, actual fraud)),(65 (Dischargeability - other)),(65 (Dischargeability - other)),(65 (Dischargeability - other)) (Iwuchuku, Donald)

Docket 1

**\*\*\* VACATED \*\*\* REASON: OSC RE: DISMISSAL SET FOR 2/19/20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Yean Hee Kim

Represented By  
M Teri Lim

**Defendant(s):**

Yean Hee Kim

Pro Se

Yean Hee Kim

Pro Se

**Plaintiff(s):**

Younkyung Jeong

Represented By  
Donald E Iwuchuku

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-24184 Robert Leslie Baillie Quigg**

**Chapter 7**

Adv#: 2:19-01066 Hankey Capital LLC v. Quigg

**#13.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01066. Complaint by Hankey Capital LLC against Robert Leslie Baillie Quigg. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Mitnick, Eric)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 6-10-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Robert Leslie Baillie Quigg

Represented By  
David M Reeder

**Defendant(s):**

Robert Leslie Baillie Quigg

Pro Se

**Plaintiff(s):**

Hankey Capital LLC

Represented By  
Eric A Mitnick

**Trustee(s):**

Sam S Leslie (TR)

Pro Se



**United States Bankruptcy Court  
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**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-24265 Neilla M Cenci**

**Chapter 7**

Adv#: 2:19-01065 BALL C M, Inc. v. Cenci et al

**#14.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01065. Complaint by BALL C M, Inc. against Neilla M Cenci. 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)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Slates, Ronald)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Neilla M Cenci

Represented By  
James R Selth

**Defendant(s):**

Neilla M Cenci

Pro Se

DOES 1 through 100, inclusive

Pro Se

**Plaintiff(s):**

BALL C M, Inc.

Represented By  
Ronald P Slates

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
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**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-10095 Jorge Villalobos Aguirre**

**Chapter 7**

Adv#: 2:19-01099 SECURITY FIRST BANK v. AGUIRRE

**#15.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01099. Complaint by SECURITY FIRST BANK against JORGE VILLALOBOS AGUIRRE. false pretenses, false representation, actual fraud)) (Dunning, Donald)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT GRANTED AT 8-7  
-19 HEARING**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jorge Villalobos Aguirre

Represented By  
Giovanni Orantes

**Defendant(s):**

JORGE VILLALOBOS AGUIRRE

Pro Se

**Plaintiff(s):**

SECURITY FIRST BANK

Represented By  
Donald T Dunning

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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Monday, January 27, 2020

Hearing Room 1568

9:00 AM

**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

Adv#: 2:16-01337 LIBERTY ASSET MANAGEMENT CORPORATION et al v. Gao et al

**#16.00 TRIAL**

RE: [1] Adversary case 2:16-ap-01337. Complaint by LIBERTY ASSET MANAGEMENT CORPORATION against Lucy Gao, Benjamin Kirk. (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Greenwood, Gail)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-17-19**

**Tentative Ruling:**

4/15/2019

On September 14, 2017, the Court dismissed without prejudice all claims for relief that were (a) not set forth in the *Joint Pretrial Stipulation* [Doc. No. 104] and/or (b) were not adjudicated in connection with the *Findings of Fact and Conclusions of Law Regarding Motion by the Official Committee of Unsecured Creditors for Summary Adjudication of Defendants' Liability for Breach of Fiduciary Duties and Accounting* [Doc. No. 57]. See Order Dismissing Remaining Claims Without Prejudice [Doc. No. 136].

On December 29, 2017, the Court entered a *Judgment in Favor of Plaintiff and Against Defendants, Jointly and Severally, in the Amount of \$74,140,695.29* [Doc. No. 142] (the "Judgment"). On February 8, 2019, the District Court reversed and remanded the Judgment and the *Order Granting the Official Committee of Unsecured Creditors' Motion for Summary Adjudication of Defendants' Liability for Breach of Fiduciary Duties and Accounting* [Doc. No. 58].

Having reviewed the Status Report filed by the Plan Administrator, the Court HEREBY ORDERS as follows:

- 1) The following litigation deadlines shall apply to the adjudication of the Plan Administrator's claims for breach of fiduciary duty and failure to account:
  - a) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **11/28/2019**.
  - b) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to

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9:00 AM

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**Liberty Asset Management Corporation**

**Chapter 11**

- expert discovery, is **12/17/2019**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- c) The last day for dispositive motions to be heard is **12/24/2019**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - d) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **12/28/2019**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - e) A Pretrial Conference is set for **1/14/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - f) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1.

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**Liberty Asset Management Corporation**

**Chapter 11**

The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **1/27/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

The Court will prepare and enter a Scheduling Order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Liberty Asset Management

Represented By  
David B Golubchik

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9:00 AM

**CONT... Liberty Asset Management Corporation**

**Chapter 11**

Jeffrey S Kwong  
John-Patrick M Fritz  
Eve H Karasik  
Sandford L. Frey  
Raphael Cung

**Defendant(s):**

Lucy Gao

Represented By  
Stephen R Wade

Benjamin Kirk

Represented By  
Derrick Talerico

**Plaintiff(s):**

LIBERTY ASSET MANAGEMENT

Represented By  
Jeremy V Richards  
Gail S Greenwood

Official Committee of Unsecured

Represented By  
Gail S Greenwood  
Jeremy V Richards  
Mitchell B Ludwig

Bradley D. Sharp

Represented By  
Jeremy V Richards  
Mitchell B Ludwig

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**Hearing Room 1568**

9:00 AM

**2:16-17463 Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

Adv#: 2:18-01181 Official Committee of Unsecured Creditors of Garde v. Superior Scientific,

**#17.00** Trial Date Set

RE: [1] Adversary case 2:18-ap-01181. Complaint by Official Committee of Unsecured Creditors of Gardens Regional Hospital and Medical Center, Inc. against Superior Scientific, Inc.. (Charge To Estate). for Avoidance and Recover of Preferential Transfers Pursuant to 11 U.S.C. Section 547 and 550 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Golden, Jeffrey)

fr. 4-16-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-4-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Gardens Regional Hospital and

Represented By  
Samuel R Maizel  
John A Moe

**Defendant(s):**

Superior Scientific, Inc.

Pro Se

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Jeffrey I Golden

**United States Bankruptcy Court  
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**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-17463 Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

Adv#: 2:18-01192 Official Committee of Unsecured Creditors of Garde v. Mediclean, Inc.

**#18.00** Trial

RE: [1] Adversary case 2:18-ap-01192. Complaint by Official Committee of Unsecured Creditors of Gardens Regional Hospital and Medical Center, Inc. against Mediclean, Inc.. (Charge To Estate). for Avoidance and Recover of Preferential Transfers Pursuant to 11 U.S.C. Section 547 and 550 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Golden, Jeffrey)

fr 8-22-18; 11-13-18; 1-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 7-11-19**

**Tentative Ruling:**

4/15/2019

At the prior Status Conference, the Court advised the parties that it would set litigation deadlines in the event the action had not settled by the date of this Status Conference. The action has not settled. Good cause appearing, the Court HEREBY ORDERS as follows:

- 1) The following litigation deadlines shall apply:
  - a) A continued Status Conference is set for **6/11/2019 at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.
  - b) The last day to amend pleadings and/or join other parties is **7/11/2019**.
  - c) The last day to disclose expert witnesses and expert witness reports is **10/29/2019**.
  - d) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **11/28/2019**.
  - e) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **12/17/2019**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert



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**Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

- discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- f) The last day for dispositive motions to be heard is **12/24/2019**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - g) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **12/28/2019**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - h) A Pretrial Conference is set for **1/14/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - i) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points

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CONT...

**Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **1/27/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) In view of the parties' representation that they are involved in active settlement negotiations, the Court will not at this time order the parties to attend formal mediation.

The Court will prepare and enter a Scheduling Order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Gardens Regional Hospital and

Represented By  
Samuel R Maizel  
John A Moe

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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9:00 AM

**CONT... Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

**Defendant(s):**

Mediclean, Inc.

Pro Se

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Jeffrey I Golden

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#19.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) (Kahn, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: AMENDED COMPLAINT FILED 3-11-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By

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Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

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**Hearing Room 1568**

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9:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

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**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#20.00** Trial Date Set

RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-24-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-21423 Ventura J. Vidal**

**Chapter 7**

**#100.00** Hearing  
RE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Chevrolet Traverse, VIN: 1GNERGKW2JJ159577 . (Wang, Jennifer)

fr: 1-21-20

Docket 12

**Tentative Ruling:**

1/24/2020

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Ventura J. Vidal**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Ventura J. Vidal

Represented By  
David Lozano

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23490 Doris Nkechinyere Obih**

**Chapter 7**

**#101.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 LEXUS IS200t with Proof of Service. (Nagel, Austin)

Docket 10

**Tentative Ruling:**

1/24/2020

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Doris Nkechinyere Obih**

**Chapter 7**

Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Doris Nkechinyere Obih

Represented By  
Nicholas M Wajda

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23620 Sylvia Mendoza**

**Chapter 7**

**#102.00** Hearing

RE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Toyota Highlander, VIN: 5TDZZRFH5JS252212 . (Wang, Jennifer)

fr: 1-21-20

Docket 10

**Tentative Ruling:**

1/24/2020

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Sylvia Mendoza**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Sylvia Mendoza

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23874 Ninotschka Rosario Fonseca**

**Chapter 7**

**#103.00** HearingRE: [14] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Nissan Versa, VIN: 3N1CN7APXHL849718 . (Wang, Jennifer) WARNING: See entry [16] for corrective action. Attorney to lodge order via LOU. Modified on 12/30/2019 (Lomeli, Lydia R.).

Docket 14

**Tentative Ruling:**

1/24/2020

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Ninotschka Rosario Fonseca Chapter 7**

to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Ninotschka Rosario Fonseca

Represented By  
Nicholas M Wajda

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#104.00** Hearing

RE: [3870] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Medical Negligence (O'Connor Hospital).

Docket 3870

**Tentative Ruling:**

1/24/2020

No appearances required. The *Stipulation Between Debtors O'Connor Hospital and Diem Anh Cao Giving Diem Anh Cao Relief from the Automatic Stay to Proceeding with Superior Court Case, Seeking Recovery from Insurance Only* (the "Stipulation") [Doc. No. 3950] is APPROVED. Debtors shall submit an order on the Stipulation within seven days of the hearing.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Rosa A Shirley



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20161 Ray Charles Patterson**

**Chapter 11**

**#105.00** Hearing  
RE: [29] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7520 Shore Cliff Drive, Los Angeles, CA 90045. . (Castle, Caren)

Docket 29

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-10-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ray Charles Patterson

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24267 Young Jin Shin**

**Chapter 7**

**#106.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Mercedes-Benz Sprinter Van M2PV46; VIN# WDZPF0CD4KP080487 .

Docket 10

**Tentative Ruling:**

1/24/2020

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, January 27, 2020**

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10:00 AM

**CONT... Young Jin Shin**

**Chapter 7**

Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Young Jin Shin

Represented By  
Marc A Goldbach

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23703 Rachelle Valerie Torres**

**Chapter 7**

**#107.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA FIT, VIN: 3HGG K5H6 6JM7 20241 .

Docket 10

**Tentative Ruling:**

1/24/2020

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Rachelle Valerie Torres**

**Chapter 7**

Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Rachelle Valerie Torres

Represented By  
Nicholas W Gebelt

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, January 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24805 LCI Group Limited LLC**

**Chapter 11**

**#108.00** HearingRE: [9] Motion for Relief from Stay Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (With Supporting Declarations) (Real Property).

Docket 9

**Tentative Ruling:**

1/25/2020

For the reasons set forth below, the Motion is DENIED, subject to the condition that Debtor must obtain an order authorizing sale of the Property by no later than June 15, 2020, either through a sale motion or approval of a Chapter 11 plan that provides for the Property's sale. The sale of the Property must close by no later than July 15, 2020. If the Debtor fails to comply with either deadline, the Court will grant the stay-relief requested herein, without further notice or hearing. In the event the Debtor fails to comply with these deadlines, Movant shall submit a declaration so attesting, accompanied by a proposed order lifting the automatic stay.

**Pleadings Filed and Reviewed**

- 1) Notice of Motion and Motion for Relief from the Automatic Stay under 11 U.S.C. § 362 (Real Property) (the "Motion") [Doc. No. 9]
  - a) Real Property Declaration of Patrick Lacy (the "Lacey Declaration")
  - b) Appraisal of Real Property (the "Movant's Appraisal") [Ex. D]
- 2) Debtor's Response to Motion Regarding the Automatic Stay and Declarations in Support [Doc. No. 11] (the "Opposition")
  - a) Appraisal of Real Property (the "Debtor's Appraisal") [Ex. 1]
- 3) Reply to Debtor's Opposition to Motion for Relief from Stay [Doc. No. 14] (the "Reply")
- 4) Monthly Operating Report, December 2019 [Doc. No. 12]
- 5) Chapter 11 Voluntary Petition [Doc. No. 1]

**I. Facts and Summary of Pleadings**

LCI Group Limited, LLC (the "Debtor") filed a voluntary Chapter 11 petition

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Los Angeles  
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**CONT... LCI Group Limited LLC**

**Chapter 11**

on December 19, 2019 (the "Petition Date") [Doc. No. 1]. On Schedule A/B, the Debtor listed an ownership interest in real property located at 15 Upper Blackwater Canyon Road, Rolling Hills, CA 90274 (the "Property") worth \$7,950,000, based on the Debtor's fair market value estimation. On Schedule D, the Debtor listed the secured claim of So-Cal Capital, LLC (the "Movant"), the holder of a first-priority deed of trust on the Property, in the amount of \$4,331,518. *See* Doc. No. 1; *see also* the Declaration of Patrick Lacey at 8, ¶ 11; Exs. A-C. In addition to Movant's interest, the Debtor states that the Los Angeles County Treasurer and Tax Collector and the Rolling Hills Community Association hold secured claims against the Property, in the amounts of \$61,918.18 and \$11,255.34 respectively. *See* Doc. No. 1. Larry Underwood, the Debtor's principal ("Underwood"), supplied the information in Debtor's schedules under penalty of perjury.

**Summary of the Motion**

On January 6, 2020, the Movant filed the "Notice of Motion and Motion for Relief from the Automatic Stay under 11 U.S.C. § 362" (the "Motion") [Doc. No. 9]. The Motion is primarily supported by the sworn declaration of Patrick Lacey (the "Lacey Declaration") and by the appraisal report prepared by Jared E. Harris (the "Movant's Appraisal") (Ex. C). Movant presently seeks relief from the automatic stay under § 362(d)(1) with regards to the Property. Pursuant to the terms of a promissory note securing Movant's deed of trust, Debtor was obligated to tender twelve interest-only payments on the first of every month, ending with a balloon payment on October 1, 2019. Lacey Declaration, ¶ 21. By the time the loan matured, the Debtor failed to make the balloon payment or the last three interest-only payments. *Id.*, ¶ 31. The Movant took the following foreclosure actions relating to the Property: (a) notice of default recorded on August 22, 2019; (b) notice of sale recorded on November 25, 2019; and (c) although foreclosure sales were set for December 20, 2019 and January 10, 2020, no sale has yet taken place. *Id.*, ¶ 9.

The Motion requests stay-relief pursuant to § 362(d)(1) on two separate grounds. First, Movant argues that its interest in the Property is not adequately protected as the Property's fair market value is declining and Debtor has ceased to make payments protecting Movant's interest against that decline. The Lacey Declaration states that Movant's total claim against the Property—inclusive of accrued interest, late charges, and costs (attorney's fees, foreclosure fees, and other costs)—is \$4,355,880. Lacey Declaration, ¶ 8. As set forth in the Movant's

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**CONT... LCI Group Limited LLC**

**Chapter 11**

Appraisal, the fair market value of the Property is \$7,000,000 as of July 26, 2018. *See id.*, Ex. C. Based on these figures, Movant calculates the approximate amount of its equity cushion is \$2,644,120, or 37.8% of the Property's fair market value. *Id.*, ¶ 11(g). Movant stresses that stay-relief is appropriate because Debtor has not tendered any payments since July 2019 and loan arrears are accruing at the rate of \$67,750 per month. *Id.*, ¶¶ 31, 34. In addition, on or about August 2019, the Property was listed for sale for the amount of \$7,950,000. *Id.*, ¶ 28. Based on conversations with the listing agent, and judging by the Property's high asking price, Mr. Lacey asserts that Underwood's stated intention to sell the Property is dubious. *Id.*, ¶ 29. Mr. Lacey further avers that he is a licensed real estate broker in California and has experience in bankruptcy, valuation, complex litigation, and in other real estate projects. *See id.*, ¶ 35. Based on his professional experience, Mr. Lacey claims that the Property "is likely to suffer a severe decrease in market price" in 2020 as anticipated by "industry analysts." *See id.*

Second, the Movant advances that this case was filed in bad faith because Debtor listed Movant as the only creditor, or one of few creditors. In support, the Movant attached Debtor's *Verification of Master Mailing List of Creditors* as Exhibit F of the Motion, which mentions only two other creditors apart from Movant. Although the Motion describes Underwood's pre-petition promises to bring the loan current, as well as Movant's frustrated efforts to foreclose on the Property, there are no other facts expressed in support of bad faith under § 362(d)(1).

**Summary of the Opposition**

On February 6, 2018, the Debtor filed a response to the Motion, which contains a memorandum of points and authorities (the "Opposing Brief") [Doc. No. 11]. The Debtor argues that the Motion should be denied because the Movant is protected by a substantial equity cushion, there is no evidence proffered supporting that the Property's value is declining, and the record here does not support that the case was filed in bad faith. At the outset, the Debtor disputes Movant's fair market valuation and affirms the Property's original valuation of \$7,950,000. Debtor's valuation is supported by the Property's current listing price of \$7,950,000, and by an appraisal report prepared by Kenny Cho on July 30, 2018, which sets fair market value at \$8,400,000 (the "Debtor's Appraisal"). *See* Declaration of Lawrence Underwood ("Underwood Decl."), ¶ 4; Ex. 1. Based on these figures, the Debtor estimates that Movant's equity cushion is \$3,544,346.89, or 44.6% of the Property's fair market value. That said, the Debtor recognizes that even under Movant's own



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Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT... LCI Group Limited LLC**

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calculations, Movant is protected by an equity cushion constituting 37.8% of Property's alleged value. Therefore, in accordance with the opinion in *Pistole v. Mellor (In re Mellor)*, 734 F.2d 1396, 1401 (9th Cir. 1984), Movant is adequately protected and is in "no way at risk of not getting paid in full." Opposing Brief at 3. According to Underwood, there are numerous parties interested in buying the Property, which is likely to be sold within six months. Underwood Decl. ¶ 3.

The Debtor also disputes Movant's bad faith argument, contending that the single act of initiating bankruptcy to halt foreclosure is not bad faith. In support, the Debtor relies on the decision in *In re Cal-Alta Props., Ltd.*, in which the Bankruptcy Appellate Panel considered a list of factors, reversing a finding of bad faith as the property at issue had over \$1 million in equity, and the debtor-entity had not been formed on the eve of bankruptcy. Opposing Brief at 4 (citing *In re Cal-Alta Props., Ltd.*, 87 B.R. 89, 92 (B.A.P. 9th Cir. 1988)). In juxtaposition with *In re Cal-Alta*, the Debtor notes that Movant's interest is adequately protected by a significant equity cushion in the millions. The Debtor further argues the fact this case was commenced in response to a foreclosure sale does not indicate bad faith as Debtor is diligently advancing its case. Accordingly, Debtor has retained bankruptcy counsel, who is preparing an application to employ a real estate broker to facilitate the Property's sale. Therefore, the Motion should be denied.

**Summary of the Reply**

Movant filed its reply to the Opposition on January 21, 2020. In the Reply, the Movant stresses the necessity for stay-relief because the Property's equity cushion may be even less than projected in Movant's Appraisal, as well as based on the Debtor's bad faith. The Movant clarifies its bad faith argument by asserting that the lack of meaningful efforts to sell the Property evidences Debtor's bad faith. According to Movant, the Property's sale listing was cancelled on or about January 2, 2020 and the absence of a motion to approve a broker contradicts Debtor's claim that the Property will be sold within six months. See Reply at 2 (quoting Opposing Brief at 2:15-16). In addition, the Movant notes that Debtor has not identified any interested parties, and it failed to adjust the Property's listing price following its unsuccessful sale. See Reply at 3 (citing Lacey Decl., ¶ 28). The Movant further doubts Debtor's sincerity because the Property is not currently on sale. Separately, the Movant now claims that the Property's fair market value may be even lower as demonstrated by the recent sale of 3 Appaloosa Lane, Rolling Hills, CA 90274 (the "Appaloosa Property"), a residential property adjacent to the Property. Movant

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indicates that the Appaloosa Property is a 7,393-square-foot residence that was initially listed for \$7,998,000 on April 16, 2018, but was only finally sold for \$6,600,000 on August 9, 2019. *See* Lacey Decl. in Support of Reply, ¶ 8; Ex. J. The Movant argues that the prolonged sale of the Appaloosa Property evinces existing market volatility, and it implies a substantially lower equity cushion of 14.6% based on the Property's re-calculated market value of \$5,577,678. In sum, the Movant requests that Court grants the Motion, or alternatively, that it directs the Debtor to tender monthly adequate protection payments of \$64,700 and sell the Property within 90 days.

## **II. Findings of Fact and Conclusions of Law**

Section 362(g) provides that a party seeking relief from stay has the burden of proof on the issue of debtor's equity in the property, and the party opposing relief has the burden of proof on all other issues.

### ***Value of the Property***

As an initial matter, the Court must address the valuation of the Property. The Movant bears the initial burden to show there is no equity in the Property, which is in turn dependent upon the fair market value of the Property. *See* 11 U.S.C. § 362(g). The Movant posits that, based on the Movant's Appraisal, the Property has a value of \$7,000,000, which may be even lower as supported by the sale of the Appaloosa Property. In contrast, the Debtor contends that the Property is worth \$7,950,000 million based on the \$8,400,000 valuation specified in the Debtor's Appraisal.

Bankruptcy courts have assessed the admissibility of appraisal reports for the purposes of a motion for relief from the automatic stay under the "business record" exception of the hearsay rule prescribed in Federal Rule of Evidence ("FRE") 803(6). *See, e.g., In re Applin*, 108 B.R. 253 (Bankr. E.D. Cal. 1989); *In re CGR Inv'rs Ltd. P'ship*, 464 B.R. 678 (Bankr. E.D. Pa. 2010). An admissible business record must meet three requirements: (1) it must be "kept in the course of a regularly conducted business activity"; (2) it must be "the regular practice of that business activity" to make the record; and (3) the "source of information or the method or circumstances of preparation" must not indicate lack of trustworthiness. *Waddell v. Comm'r of Internal Revenue*, 841 F.2d 264, 267 (9th Cir. 1988); FRE 803(6). Given that real estate appraisals generally lack "the circumstantial guarantees of trustworthiness," written appraisals may serve as evidence only if the opinion of valuation is supported "by the

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affidavit or deposition testimony of the appraiser laying a proper evidentiary foundation for the appraiser's expertise." *In re Applin*, 108 B.R. at 261 (citing *Waddell*, 841 F.2d at 267). The admissibility of such proffered evidence is a matter of discretion with the trial court. *Waddell*, 841 F.2d at 267.

The Court finds that the Debtor's Appraisal does not satisfy the admissibility requirements under FRE 803(6) because the document is not authenticated by the appraiser, Kenny Cho, and therefore, it is inadmissible. For the same reasons, the Court dismisses the Property's re-calculated value of \$5,577,678 presented in the Reply, which was entirely derived from the sale of the Appaloosa Property [**Note 1**]. The Movant has far from established that the Property's value may be accurately determined by reference to the sale of one property alone, and one which may or may not be construed as a "comparable". This valuation method is only supported by Mr. Lacey's reply declaration, but there is no evidence proffered that Mr. Lacey is a qualified appraisal expert. In fact, reference to the Movant's Appraisal indicates that the Property's valuation analysis consisted of more than just one comparable real estate sale. *See* Lacey Decl., Ex. D (Movant's Appraisal took into consideration as many as ten (10) comparable sales within twelve months of its preparation.). In sum, the Movant has failed to establish that the valuation method presented in the Reply is trustworthy or accurate.

In contrast, the Court determines that the Movant's Appraisal satisfies the standard under FRE 803(6). In the Motion, the Movant presented Mr. Lacey's declaration to which the Movant's Appraisal was attached. Mr. Lacey, who declares to be a record custodian for Movant, establishes that soliciting real property appraisals prior to the closing of promissory notes secured by real property is in "the ordinary course of business" for the Movant. Lacey Decl., ¶ 2. In addition, the appraiser attached his appraiser license and an affidavit certifying the statements of fact contained therein. *See generally* Lacey Decl., Ex. D. Notwithstanding the admissibility of Movant's Appraisal, the Court places little weight in the Property's valuation of \$7,000,000 because the effective appraisal date is July 26, 2018, nearly seventeen (17) months before the Petition Date and the initial foreclosure sale date. Therefore, the Court determines that both appraisals are inapt to determine the Property's value. *See In re Deico Electronics, Inc.*, 139 B.R. 945, 947 (B.A.P. 9th Cir. 1992) (holding that bankruptcy courts must determine value of collateral in adequate protection analyses as of the date creditor would have obtained state law

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remedies had petition not been filed.).

The Court finds that the best existing measure of the Property's fair market value comes from Debtor's schedules, and thereby finds that the Property has a value of \$7,950,000. *See In re Cocreham*, Nos. 13-26465-A-13J, PGM-2, 2013 Bankr. LEXIS 3537, at \*6-7 (Bankr. E.D. Cal. Aug. 23, 2013) (determining that the debtor, as a homeowner, was competent to offer a lay opinion as to its value).

***11 U.S.C. § 362(d)(1)***

A. Lack of Adequate Protection

Under § 362(d)(1), the court shall grant relief "for cause, including the lack of adequate protection of an interest in property of such party in interest." Generally, what constitutes cause for purposes of § 362(d) "has no clear definition and is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir. 1990); *see also Little Creek Dev. Co. v. Commonwealth Mortgage Corp. (In the Matter of Little Creek Dev. Co.)*, 779 F.2d 1068, 1072 (5th Cir. 1986) (relief from the automatic stay may "be granted 'for cause,' a term not defined in the statute so as to afford flexibility to the bankruptcy courts"). However, cause under § 362(d)(1) expressly includes a lack of adequate protection. Section 361 sets forth three non-exclusive examples of what may constitute adequate protection: (1) periodic cash payments equivalent to decrease in value; (2) an additional or replacement lien on other property; or (3) other relief that provides the indubitable equivalent. *See In re Mellor*, 734 F.2d at 1400. The Ninth Circuit has established that an equity cushion of at least 20% constitutes adequate protection for a secured creditor. *Id.* at 1401; *see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.)*, 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral).

Here, the Property's fair market value is determined to be \$7,950,000, and it is uncontested that the amount of Movant's claim is approximately \$4,355,880. There are no claims senior to Movant's lien. Based on these figures, the Court finds that Movant is adequately protected by an equity cushion of \$3,594,120, which constitutes 45.2% of the Property's fair market value. Moreover, the Movant has not established its contention that the Property is declining in value. Apart from Mr. Lacey's uncorroborated conclusion that the Property's value is likely to drop this year, the Movant has not proffered documents or expert testimony indicating that the Property

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has in fact declined in value. In sum, the Court determines that Movant is not entitled to relief for lack of adequate protection at this time.

**B. Bad Faith**

As many cases have recognized, a "debtor's lack of good faith in filing a petition for bankruptcy may be the basis for lifting the automatic stay" under §362(d) (1). *In re Laguna Assocs. Ltd. P'ship*, 30 F.3d 734, 737 (6th Cir. 1994); *see also Carolin Corp. v. Miller*, 886 F.2d 693, 699 (4th Cir. 1989) ("Section 362(d)(1)'s 'for cause' language authorizes the court to determine whether, with respect to the interests of a creditor seeking relief, a debtor has sought the protection of the automatic stay in good faith."); *In re Arnold*, 806 F.2d 937, 939 (9th Cir. 1986) ("The debtor's lack of good faith in filing a bankruptcy petition has often been used as a cause for removing the automatic stay."). "Good faith is an amorphous notion, largely defined by factual inquiry. In a good faith analysis, the infinite variety of factors facing any particular debtor must be weighed carefully." *In re Okoreeh-Baah*, 836 F.2d 1030, 1033 (6th Cir. 1988). The determination of bad faith depends on an amalgam of various factors and not upon a single fact. *See Matter of Littlecreek Development Co.*, 779 F.2d 1068, 1072 (5th Cir.1986). Bankruptcy courts should examine factors that may include "the debtor's financial condition, motives, and the local financial realities." *Id.*

Here, Movant's bad faith argument rests on the fact that Debtor listed Movant as one of few creditors in its commencement documents. Additionally, Movant claims that Debtor is not seriously intending to sell the Property. The facts presented by Movant are not sufficient to reach a finding of bad faith. Although the Court notes that the Debtor listed only three creditors and commenced this case just before the original foreclosure sale date, these facts do not persuade the Court that Debtor engaged in bad faith. *See Matter of Littlecreek Development Co.*, 779 F.2d at 1073 ("filing a bankruptcy petition on the eve of a scheduled foreclosure sale is not, by itself, sufficient to constitute bad faith") (internal citations omitted). There are countervailing factors here indicating that this bankruptcy case is legitimate. For instance, Underwood, the Debtor's principal, declares that the bankruptcy petition was filed to permit the Debtor to sell the Property and pay off secured creditors. With that objective in mind, the Debtor has retained counsel and will seek to employ a real estate broker to sell the property. The Court verifies that an application to employ the Law Offices of Michael Jay Berger was granted on January 22, 2020 [Doc. No. 15].

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And although the Debtor basically holds only one asset, *i.e.*, the Property, it fully secures all three secured claims. Having reviewed the Debtor's first monthly operating report [Doc. No. 12], the Court further notes that Debtor has opened a debtor-in-possession account. Additionally, there is no evidence that the Debtor was incorporated for the single purpose of seeking bankruptcy relief, or otherwise that the Property was transferred to Debtor on the eve of the bankruptcy filing.

Having considered the facts of this matter in their totality, the Court cannot conclude that Debtor's bankruptcy petition was filed in bad faith.

Therefore, Movant has not established entitlement to relief from stay pursuant to § 362(d)(1).

***Alternative Relief***

Movant's request for an order requiring Debtor to sell the Property within 90 days is DENIED. As indicated by the Appaloosa Property sale, highly-valued real estate in an affluent neighborhood may take a longer to successfully market and sell. Therefore, the Court finds that a deadline set approximately four months away should afford Debtor a suitable amount of time to sell the Property. The Court believes this time frame will induce the Debtor to act diligently, and it is apropos given Movant's approximate equity cushion of more than \$3 million, which is approximately forty-six (46) times the arrearage amount accruing on the Property each month.

**III. Conclusion**

Based on the foregoing, the Motion is DENIED, subject to the condition that Debtor must obtain an order authorizing sale of the Property by no later than June 15, 2020, either through a sale motion or approval of a Chapter 11 plan that provides for the Property's sale. The sale of the Property must close by no later than July 15, 2020. If the Debtor fails to comply with either deadline, the Court will grant the stay-relief requested herein, without further notice or hearing. In the event the Debtor fails to comply with these deadlines, Movant shall submit a declaration so attesting, accompanied by a proposed order lifting the automatic stay.

The Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The re-calculated value of the Property appears to be based off of the purchase price for the Appaloosa Property, which amounts to \$893 per square footage, not to \$892 as indicated in the Reply. *See* Reply at 5. Movant's re-calculated valuation of the Property is as follows: 6,246 (the Property's alleged total square footage) x \$893 [square footage price of Appaloosa Property] = \$5,577,678.

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

LCI Group Limited LLC

Represented By  
Michael Jay Berger

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**Monday, February 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24303 Jose Naum Herrera Arias**

**Chapter 7**

**#1.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA CIVIC, VIN: 2HGF C2F5 XJH5 52927 .

Docket 11

**Tentative Ruling:**

1/30/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.



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**CONT... Jose Naum Herrera Arias**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Jose Naum Herrera Arias

Represented By  
Francis Guilardi

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
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**Monday, February 3, 2020**

**Hearing Room 1545**

10:00 AM

**2:19-25075 Mokhlesur Rehman Kabiraz**

**Chapter 7**

**#2.00** HearingRE: [7] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA CIVIC, VIN: 2HGF C2F5 4JH5 89844 .

Docket 7

**Tentative Ruling:**

1/30/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

The stay is annulled retroactive to the petition date, so that enforcement actions taken by Movant, if any, before receipt of notice of the automatic stay will not be deemed to have been voided by the automatic stay. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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10:00 AM

**CONT... Mokhlesur Rehman Kabiraz**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Mokhlesur Rehman Kabiraz

Represented By  
Michael H Yi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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Tuesday, February 4, 2020

Hearing Room 1568

10:00 AM

2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo

Chapter 7

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#1.00** Hearing  
RE: [9] Motion UNDER FEDERAL RULES OF CIVIL PROCEDURE RULE 12(B)  
(6) FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED;  
MEMORANDUM OF POINTS AND AUTHORITY;

Docket 9

\*\*\* VACATED \*\*\* REASON: CONTINUED 4-15-20 AT 11:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

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

8590 Sunset A-FS, LLC dba Cafe	Represented By Michael Jay Berger
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**Defendant(s):**

Charlton Lui	Pro Se
Catalyst Trust	Pro Se
CP WW Ventures Inc	Pro Se
CTC Investment Holdings LLC	Pro Se
Primo Hospitality Group, Inc.	Pro Se
Hovahannes Tshavrushyan	Represented By Roland H Kedikian

**Plaintiff(s):**

Rosendo Gonzalez	Represented By Diane C Weil
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**Trustee(s):**

Rosendo Gonzalez (TR)	Represented By Sonia Singh
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**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Diane C Weil

**United States Bankruptcy Court  
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10:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01255 Ehrenberg, Chapter 7 Trustee v. Hsu, an Individual

**#2.00** HearingRE: [26] Motion for Default Judgment Plaintiff's Motion for Default Judgment Under LBR 7055-1

Docket 26

**Tentative Ruling:**

2/3/2020

For the reasons set forth below, the Motion for Default Judgment is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Plaintiff's Motion for Default Judgment Under LBR 7055-1 (the "Motion") [Doc. No. 26]
  - a) Notice of Motion for Default Judgment [Doc. No. 27]
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

Fu Kong, Inc. (the "Debtor") filed a voluntary Chapter 11 petition on June 26, 2018 (the "Petition Date"). On January 9, 2019, the Court entered an order converting the case to Chapter 7. Doc. No. 115.

On August 6, 2019, the Chapter 7 Trustee (the "Trustee") commenced this avoidance action against George Hsu (the "Defendant"). The Clerk of the Court entered Defendant's default on December 4, 2019. The Trustee now moves for entry of default judgment against the Defendant. No opposition to the Motion is on file.

**II. Findings and Conclusions**

Once default has been entered, the well-pleaded factual allegations of the complaint are taken as true. *Cripps v. Life Ins. Co. of North America*, 980 F.2d 1261, 1267 (9th Cir.1992). Based upon the Complaint's well-pleaded allegations and the evidence submitted in support of the Motion, the Court finds that the Trustee is entitled to judgment against the Defendant in the amount of \$1,233,373.48.

The Trustee is Entitled to Judgment on the First Claim for Relief Under § 547(b)

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**CONT... Fu Kong Inc.**

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Section 547(b) permits the Trustee to avoid "any transfer of an interest of the debtor in property" if the transfer was:

- 1) to or for the benefit of a creditor;
- 2) for or on account of an antecedent debt owed by the debtor before such transfer was made;
- 3) made while the debtor was insolvent;
- 4) made—
  - a) on or within 90 days before the date of the filing of the petition; or
  - b) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider; and
- 5) that enables such creditor to receive more than such creditor would receive if—
  - a) the case were a case under chapter 7 of this title;
  - b) the transfer had not been made; and
  - c) such creditor received payment of such debt to the extent provided by the provisions of this title.

For purposes of § 547(b), a "transfer" means:

- a) the creation of a lien;
- b) the retention of title as a security interest;
- c) the foreclosure of a debtor's equity of redemption; or
- d) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—
  - i) property; or
  - ii) an interest in property.

§ 101(54).

It is the Trustee's burden to establish all the elements of § 547(b) by a preponderance of the evidence. §547(g); *Hall-Mark Electronics Corp. v. Sims (In re Lee)*, 179 B.R. 149, 155 (B.A.P. 9th Cir. 1995) *aff'd*, 108 F.3d 239 (9th Cir. 1997). Section 547(c) sets forth certain defenses to transfer liability. The Defendant has the burden of establishing that the § 547(c) defenses apply, again under the preponderance of the evidence standard. § 547(g).

The Trustee has alleged facts sufficient to establish that the Defendant received

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CONT... **Fu Kong Inc.**

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transfers avoidable under § 547(b) and that Defendant is an insider of the Debtor. The Complaint and the exhibits attached thereto establish that within the one-year period prior to the Petition Date, the Defendant received preferential transfers in the total amount of \$120,923.48 (consisting of \$6,458.71 in SOFA Transfers and \$114,464.77 in One-Year 3048 Transfers [Note 1]).

The Trustee is Entitled to Judgment on the Fourth Claim for Relief Under § 548(a)(1)(A)

Section 548(a)(1)(A) provides: “The trustee may avoid any transfer ... of an interest of the debtor in property ... that was made or incurred on or within 2 years before the date of the filing of the petition, if the debtor voluntarily or involuntarily made such transfer ... with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made ... indebted.”

Because “it is often impracticable, on direct evidence, to demonstrate an actual intent to hinder, delay or defraud creditors,” courts “frequently infer fraudulent intent from the circumstances surrounding the transfer, taking particular note of certain recognized indicia or badges of fraud.” *Acequia, Inc. v. Clinton (In re Acequia, Inc.)*, 34 F.3d 800, 805 (9th Cir. 1994). Those badges of fraud include “(1) actual or threatened litigation against the debtor; (2) a purported transfer of all or substantially all of the debtor’s property; (3) insolvency or other unmanageable indebtedness on the part of the debtor; (4) a special relationship between the debtor and the transferee; and, after the transfer, (5) retention by the debtor of the property involved in the putative transfer.” *Id.*

The Complaint and the exhibits attached thereto establish that within the two years prior to the Petition Date, the Defendant received transfers avoidable under § 548(a)(1)(A) in the amount of \$433,323.48 (consisting of \$6,458.71 in SOFA Transfers, \$114,464.77 in One-Year 3048 Transfers, and \$312,400 in Two-Year 3048 Transfers).

The Trustee is Entitled to Judgment on the Second Claim for Relief Under § 544(b), Applying Cal. Civ. Code § 3439.04(a)(1)

Section 544(b)(1) permits the trustee to "avoid any transfer of an interest of the debtor in property ... that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under section 502 of this title or that is not allowable only under section 502(e) of this title." The "applicable law" in this case is



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California's Uniform Voidable Transfers Act, codified at Cal. Civil Code § 3439.01 et seq. The relevant provision of the California Uniform Voidable Transfers Act (the "UVTA"), § 3439.04, is substantially identical to § 548(a)(1)(A) of the Bankruptcy Code.

The Complaint and the exhibits attached thereto establish that within the four years prior to the Petition Date, the Defendant received transfers avoidable under § 544(b), applying Cal. Civ. Code § 3439.04(a)(1), in the amount of \$1,223,373.48 (consisting of \$6,458.71 in SOFA Transfers, \$114,464.77 in One-Year 3048 Transfers, \$312,400 in Two-Year 3048 Transfers, and \$790,050 in Four-Year 3048 Transfers).

The Trustee is Entitled to Judgment on the Fifth Claim for Relief Under § 548(a)(1)(B)

Section 548(a)(1)(B) provides that a transfer is avoidable if the debtor "received less than a reasonably equivalent value in exchange for such transfer" and if the debtor:

- 1) was insolvent on the date that such transfer was made ... or became insolvent as a result of such transfer ...;
- 2) was engaged in a business or a transaction, or was about to engage in a business or a transaction, for which any property remaining with the debtor was an unreasonably small capital;
- 3) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured; or
- 4) made such transfer to or for the benefit of an insider ... under an employment contract and not in the ordinary course of business.

§ 548(a)(1)(B).

The Complaint and the exhibits attached thereto establish that within the two years prior to the Petition Date, the Defendant received transfers avoidable under § 548(a)(1)(B) in the amount of \$433,323.48 (consisting of \$6,458.71 in SOFA Transfers, \$114,464.77 in One-Year 3048 Transfers, and \$312,400 in Two-Year 3048 Transfers).

The Trustee is Entitled to Judgment on the Third Claim for Relief Under § 544(b), Applying Cal. Civ. Code § 3439.05

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Section 544(b) authorizes the avoidance of transfers under applicable state law. California Civ. Code § 3439.05, which is similar to § 548(a)(1)(B), provides that a "transfer made ... by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made ... if the debtor made the transfer ... without receiving reasonably equivalent value in exchange for the transfer ... and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer."

For the same reasons that the Transfers were constructively fraudulent under § 548(a)(1)(B), the Transfers are constructively fraudulent under § 544(b), applying California Code of Civil Procedure § 3439.05.

The Complaint and the exhibits attached thereto establish that within the four years prior to the Petition Date, the Defendant received transfers avoidable under § 544(b), applying Cal. Civ. Code § 3439.05, in the amount of \$1,223,373.48 (consisting of \$6,458.71 in SOFA Transfers, \$114,464.77 in One-Year 3048 Transfers, \$312,400 in Two-Year 3048 Transfers, and \$790,050 in Four-Year 3048 Transfers).

The Trustee is Entitled to Judgment on the Sixth Claim for Relief Under § 550(a)

Where a transfer has been avoided under §§ 544 or 548, § 550(a) authorizes the trustee to "recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property ...."

The Trustee is entitled to recovery of the avoided transfers pursuant to § 550(a).

The Trustee is Entitled to Judgment on the Seventh Claim for Relief Under § 551

Section 551 provides that transfers avoided under §§ 544 or 548 are preserved for the benefit of the estate.

The Trustee is entitled to preservation of the avoided transfers pursuant to § 551.

The Trustee is Entitled to an Order Directing Defendant to Turnover the Avoided Transfers to the Estate

The Trustee seeks entry of an order directing the Defendant to turnover the avoided transfers to the Trustee. The Court finds entry of such an order to be appropriate.

**III. Conclusion**

Based upon the foregoing, the Trustee is entitled to entry of judgment against the Defendant, in the total amount of \$1,233,373.48. Within seven days of the hearing,

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the Trustee shall submit (1) an order granting the Motion and (2) a separate judgment. (Pursuant to Civil Rule 58, which provides that "every judgment ... must be set out in a separate document," both an order and a judgment must be submitted.)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Capitalized terms not defined herein have the meaning set forth in the Complaint.

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

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

George Hsu, an Individual

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

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**2:18-17345 Fu Kong Inc.**

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Adv#: 2:19-01256 Ehrenberg, Chapter 7 Trustee v. Hsu

**#3.00** HearingRE: [37] Motion Plaintiff's Motion for Default Judgment Under LBR 7055-1

Docket 37

**Tentative Ruling:**

2/3/2020

For the reasons set forth below, the Motion for Default Judgment is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Plaintiff's Motion for Default Judgment Under LBR 7055-1 (the "Motion") [Doc. No. 37]
  - a) Notice of Motion for Default Judgment [Doc. No. 33]
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

Fu Kong, Inc. (the "Debtor") filed a voluntary Chapter 11 petition on June 26, 2018 (the "Petition Date"). On January 9, 2019, the Court entered an order converting the case to Chapter 7. Doc. No. 115.

On August 6, 2019, the Chapter 7 Trustee (the "Trustee") commenced this avoidance action against Lillian Yu-Li Hsu (the "Defendant"). The Clerk of the Court entered Defendant's default on December 20, 2019. The Trustee now moves for entry of default judgment against the Defendant. No opposition to the Motion is on file.

**II. Findings and Conclusions**

Once default has been entered, the well-pleaded factual allegations of the complaint are taken as true. *Cripps v. Life Ins. Co. of North America*, 980 F.2d 1261, 1267 (9th Cir.1992). Based upon the Complaint's well-pleaded allegations and the evidence submitted in support of the Motion, the Court finds that the Trustee is entitled to judgment against the Defendant in the amount of \$1,233,373.48.

The Trustee is Entitled to Judgment on the First Claim for Relief Under § 547(b)

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Section 547(b) permits the Trustee to avoid "any transfer of an interest of the debtor in property" if the transfer was:

- 1) to or for the benefit of a creditor;
- 2) for or on account of an antecedent debt owed by the debtor before such transfer was made;
- 3) made while the debtor was insolvent;
- 4) made—
  - a) on or within 90 days before the date of the filing of the petition; or
  - b) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider; and
- 5) that enables such creditor to receive more than such creditor would receive if—
  - a) the case were a case under chapter 7 of this title;
  - b) the transfer had not been made; and
  - c) such creditor received payment of such debt to the extent provided by the provisions of this title.

For purposes of § 547(b), a "transfer" means:

- a) the creation of a lien;
- b) the retention of title as a security interest;
- c) the foreclosure of a debtor's equity of redemption; or
- d) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—
  - i) property; or
  - ii) an interest in property.

§ 101(54).

It is the Trustee's burden to establish all the elements of §547(b) by a preponderance of the evidence. §547(g); *Hall-Mark Electronics Corp. v. Sims (In re Lee)*, 179 B.R. 149, 155 (B.A.P. 9th Cir. 1995) *aff'd*, 108 F.3d 239 (9th Cir. 1997). Section 547(c) sets forth certain defenses to transfer liability. The Defendant has the burden of establishing that the § 547(c) defenses apply, again under the preponderance of the evidence standard. § 547(g).

The Trustee has alleged facts sufficient to establish that the Defendant received

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transfers avoidable under § 547(b) and that Defendant is an insider of the Debtor. The Complaint and the exhibits attached thereto establish that within the one year prior to the Petition Date, the Defendant received preferential transfers in the total amount of \$152,602.

The Trustee is Entitled to Judgment on the Second Claim for Relief Under § 548(a)(1)(A)

Section 548(a)(1)(A) provides: “The trustee may avoid any transfer ... of an interest of the debtor in property ... that was made or incurred on or within 2 years before the date of the filing of the petition, if the debtor voluntarily or involuntarily made such transfer ... with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made ... indebted.”

Because “it is often impracticable, on direct evidence, to demonstrate an actual intent to hinder, delay or defraud creditors,” courts “frequently infer fraudulent intent from the circumstances surrounding the transfer, taking particular note of certain recognized indicia or badges of fraud.” *Acequia, Inc. v. Clinton (In re Acequia, Inc.)*, 34 F.3d 800, 805 (9th Cir. 1994). Those badges of fraud include “(1) actual or threatened litigation against the debtor; (2) a purported transfer of all or substantially all of the debtor’s property; (3) insolvency or other unmanageable indebtedness on the part of the debtor; (4) a special relationship between the debtor and the transferee; and, after the transfer, (5) retention by the debtor of the property involved in the putative transfer.” *Id.*

The Complaint and the exhibits attached thereto establish that within the two years prior to the Petition Date, the Defendant received transfers avoidable under § 548(a)(1)(A) in the amount of \$152,602.

The Trustee is Entitled to Judgment on the Third Claim for Relief Under § 548(a)(1)(B)

Section 548(a)(1)(B) provides that a transfer is avoidable if the debtor "received less than a reasonably equivalent value in exchange for such transfer" and if the debtor:

- 1) was insolvent on the date that such transfer was made ... or became insolvent as a result of such transfer ...;
- 2) was engaged in a business or a transaction, or was about to engage in a

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business or a transaction, for which any property remaining with the debtor was an unreasonably small capital;

- 3) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured; or
- 4) made such transfer to or for the benefit of an insider ... under an employment contract and not in the ordinary course of business.

§ 548(a)(1)(B).

The Complaint and the exhibits attached thereto establish that within the two years prior to the Petition Date, the Defendant received transfers avoidable under § 548(a)(1)(B) in the amount of \$152,602.

The Trustee is Entitled to Judgment on the Fourth Claim for Relief Under § 550(a)

Where a transfer has been avoided, § 550(a) authorizes the trustee to "recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property ...."

The Trustee is entitled to recovery of the avoided transfers pursuant to § 550(a).

The Trustee is Entitled to Judgment on the Fifth Claim for Relief Under § 551

Section 551 provides that avoided transfers are preserved for the benefit of the estate. The Trustee is entitled to preservation of the avoided transfers pursuant to § 551.

The Trustee is Entitled to an Order Directing Defendant to Turnover the Avoided Transfers to the Estate

The Trustee seeks entry of an order directing the Defendant to turnover the avoided transfers to the Trustee. The Court finds entry of such an order to be appropriate.

### **III. Conclusion**

Based upon the foregoing, the Trustee is entitled to entry of judgment against the Defendant, in the total amount of \$152,602. Within seven days of the hearing, the Trustee shall submit (1) an order granting the Motion and (2) a separate judgment. (Pursuant to Civil Rule 58, which provides that "every judgment ... must be set out in a separate document," both an order and a judgment must be submitted.)

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lillian Yu-Li Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth



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**2:18-11284 Damu Vusha and Akiba Vusha**

**Chapter 11**

**#4.00** HearingRE: [163] Application for Compensation Third and Final for Michael Jay Berger, Debtor's Attorney, Period: 5/1/2019 to 11/30/2019, Fee: \$11352.50, Expenses: \$1145.61.

Docket 163

**Tentative Ruling:**

2/3/2020

Having reviewed the third and final application for fees and expenses filed by this applicant, the Court approves the fees and expenses, and payment, as requested by the Applicant, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Fees: \$11,352.50

Expenses: \$1,145.61

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Damu Vusha

Represented By  
Michael Jay Berger

**Joint Debtor(s):**

Akiba Vusha

Represented By  
Michael Jay Berger

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**2:18-11284 Damu Vusha and Akiba Vusha**

**Chapter 11**

**#5.00** HearingRE: [166] Application for Compensation Final Fees and/or Expenses for Jennifer Min Liu, Accountant, Period: 5/14/2019 to 12/27/2019, Fee: \$3,465.00, Expenses: \$0.00.

Docket 166

**Tentative Ruling:**

2/3/2020

Having reviewed the second and final application for fees and expenses filed by this applicant, the Court approves the fees and expenses, and payment, as requested by the Applicant, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Fees: \$3,465

Expenses: \$0.00

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Damu Vusha

Represented By  
Michael Jay Berger

**Joint Debtor(s):**

Akiba Vusha

Represented By  
Michael Jay Berger

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** HearingRE: [3887] Motion to Extend Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement Memorandum of Points and Authorities; Declaration of Richard G. Adcock

Docket 3887

**Tentative Ruling:**

2/3/2020

For the reasons set forth below, the Motion is GRANTED, without prejudice to the Committee's ability to move to terminate exclusivity for cause at any time, pursuant to § 1121(d)(1).

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Motion for Entry of an Order Pursuant to Section 1121 of the Bankruptcy Code Extending the Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances [Doc. No. 3887] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 3887 and 3896 [Doc. No. 3921]
- 2) Official Committee of Unsecured Creditors' Response to Debtors' Motion for Entry of an Order Pursuant to Section 1121 of the Bankruptcy Code Extending the Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances [Doc. No. 3925]

**I. Facts and Summary of Pleadings**

On August 31, 2018, Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. On August 31, 2018, the Court entered an order granting the Debtors' motion for joint administration of the Debtors' Chapter 11 cases. Doc. No. 17.

On December 6, 2019, the Court entered an order extending the exclusive period for the Debtors to file a plan to December 31, 2019 and to solicit acceptances to February 29, 2019. Doc. No. 3769.

The Debtors move to further extend the exclusivity period to March 2, 2020 (filing

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a plan) and April 30, 2020 (obtaining acceptances).

The Official Committee of Unsecured Creditors (the "Committee") does not object to the Motion, but reserves its right to seek termination of exclusivity pursuant to § 1121(d)(1) at any time.

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Section 1121(b) gives the Debtor the exclusive right to file a plan during the first 120 days after the date of the order for relief. Section 1121(d) permits the Court to reduce or increase the exclusivity period "for cause." Section 1121 provides the bankruptcy court "maximum flexibility to suit various types of reorganization proceedings." *In re Public Service Company of New Hampshire*, 88 B.R. 521, 534 (Bankr. D.N.H. 1988). A "transcendent consideration is whether adjustment of exclusivity will facilitate moving the case forward toward a fair and equitable resolution." *Official Comm. of Unsecured Creditors v. Henry Mayo Newhall Mem'l Hosp. (In re Henry Mayo Newhall Mem'l Hosp.)*, 282 B.R. 444, 453 (B.A.P. 9th Cir. 2002). In determining whether cause exists to extend the exclusivity period, courts consider a variety of factors, including:

- 1) the size and complexity of the case;
- 2) the necessity of sufficient time to permit the debtor to negotiate a plan of reorganization and prepare adequate information;
- 3) the existence of good faith progress toward reorganization;
- 4) the fact that the debtor is paying its bills as they become due;
- 5) whether the debtor has demonstrated reasonable prospects for filing a viable plan;
- 6) whether the debtor has made progress in negotiations with its creditors;
- 7) the amount of time which has elapsed in the case;
- 8) whether the debtor is seeking an extension of exclusivity in order to pressure creditors to submit to the debtor's reorganization demands; and
- 9) whether an unresolved contingency exists.

*In re Dow Corning Corp.*, 208 B.R. 661, 664–65 (Bankr. E.D. Mich. 1997).

The Court finds that cause exists to further extend the exclusivity period to March 2, 2020 (filing a plan) and April 30, 2020 (obtaining acceptances), as requested by the Debtors. This extension is without prejudice to the Committee's ability to seek to

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terminate exclusivity for cause at any time, pursuant to § 1121(d)(1).

An extension of exclusivity is warranted for multiple reasons. First, these are complex cases. In addition to bankruptcy law, the Debtors' sale of their hospitals implicates issues of healthcare regulatory law, labor law, and mergers and acquisitions law. Second, the Debtors have made significant progress in these cases. The Debtors' sale of O'Connor Hospital ("O'Connor") and Saint Louise Regional Hospital ("Saint Louise") to the County of Santa Clara closed on February 28, 2019. The Debtors made a diligent effort to close the Court-approved sale of their remaining hospitals to Strategic Global Management (the "SGM Sale"). After the SGM Sale did not close, the Debtors began marketing the remaining hospitals to alternative buyers.

Third, the Debtors require additional time to sell their remaining hospitals. The sale of the remaining hospitals is a prerequisite to confirming a Plan of Liquidation.

Fourth, the Debtors are paying their ordinary course administrative expense as they come due. As a result, creditors are not prejudiced by the requested extension.

Fifth, the Debtors have filed a Plan. Although objections to the Plan remain outstanding, the Debtors are working with stakeholders to resolve issues through an amended Plan.

Sixth, the cases have not been pending for an unreasonable amount of time in view of their complexity. The cases have been pending for approximately seven months.

Seventh, the Debtors did not seek the extension to pressure creditors, as evidenced by the fact that the Debtors continue to negotiate with the Committee to attempt to resolve the Committee's objections to the Plan.

Eighth, various unresolved contingencies exist, the most significant of which is the need to pursue alternative transactions for the sale of the remaining hospitals.

In sum, consideration of the *Dow Corning* factors supports the extension of exclusivity requested by the Debtors. The Motion is GRANTED, without prejudice to the Committee's ability to move to terminate exclusivity for cause at any time, pursuant to § 1121(d)(1).

The Debtors shall submit an order incorporating this tentative ruling by reference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them**

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**of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Rosa A Shirley

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**2:16-16496 JW Wireless Inc.**

**Chapter 7**

**#100.00** HearingRE: [84] Motion For Sale of Property of the Estate under Section 363(b) - No Fee Notice of Motion and Motion of Chapter 7 Trustee for an Order Approving the Sale of Certain Assets of the Debtor's Estate Free and Clear of Liens, Claims, Interests, and Encumbrances Pursuant to 11 U.S.C. §§ 105 and 363 and Related Relief; Memorandum of Points and Authorities; and Declaration of John J. Menchaca in Support Thereof with Proof of Service (Goe, Robert)

Docket 84

**Tentative Ruling:**

2/03/2020

For the reasons set forth below, the Sale Motion is GRANTED. The Court will not conduct an auction and will waive appearances at the Sale Hearing.

**Key Sale Terms:**

- 1) **Proposed purchaser:** Oak Point Partners, LLC
- 2) **Property for sale:** Remaining assets of the estate, whether known or unknown, excluding (a) cash, (b) "Goods" (as that term is defined in § 9-102(a)(44) of the Uniform Commercial Code ("UCC")), (c) the purchase price of the remaining assets, and (d) the claims and related proceeds held by the Estate against Celco Partnership dba Verizon Wireless, BJ Mobile, Inc., Jetworld, Inc., JW Wireless OKC, JWK Management, Inc., Jetstar Auto Sports, Inc., Shaigan Ben Her, Lea Young Lee, Joan Yu, Chu Feng Yu, and Carolyn Rhyoo (the "Adversary Proceeding Parties")
- 3) **Purchase price:** \$4,000
- 4) **Overbids:** The initial overbid shall be \$4,000. Subsequent overbids shall be in increments of \$1,000.00.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion of Chapter 7 Trustee for an Order Approving the Sale of Certain Assets of the Debtor's Estate Free and Clear of Liens, Claims, Interests, and Encumbrances Pursuant to 11 U.S.C. §§ 105 and 363 [Doc. No. 85] (the "Sale Motion")

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**JW Wireless Inc.**

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- a) Amended Notice of [Sale Motion] [Doc. No. 90]
- b) Notice of Sale of Estate Property [Doc. No. 86]
- 2) No opposition to the Sale Motion is on file
- 3) Overbids: No overbids have been timely submitted

### **I. Facts and Summary of Pleadings**

JW Wireless, Inc. (the "Debtor") commenced a voluntary Chapter 7 petition on May 17, 2016. John J. Menchaca, the Chapter 7 trustee (the "Trustee"), proposes to sell all known and unknown remaining assets of the estate (the "Remnant Assets"), which exclude the following: (a) cash [Note 1], (b) "Goods" (as that term is defined in § 9-102(a)(44) of the UCC), (c) the purchase price of the Remnant Assets, and (d) the claims and related proceeds held by the estate against the Adversary Proceeding Parties. The proposed purchaser is Oak Point Partners, LLC ("Oak Point"). The purchase price is \$4,000. The Trustee is not currently aware of any Remnant Assets. The Trustee asserts that the sale of the Remnant Assets allows the estate to realize additional funds, and it provides an efficient means to close the case, while avoiding the expense associated with reopening the case in the future to administer later-discovered assets. In addition, a UCC search did not disclose any liens on the Remnant Assets (Exhibit B of the Sale Motion), and the Trustee has not received any notice of claims, liens, or interests. Therefore, the Trustee submits that any asserted lien, interest, or claim would be in bona fide dispute.

The sale is subject to overbids; however, no overbidders contacted the Trustee within the deadline set forth in the Sale Motion. Accordingly, the Trustee requests that appearances at the Sale Hearing be waived. No opposition to the Sale Motion is on file.

### **II. Findings and Conclusions**

Section 363(b) permits the Trustee to sell estate property out of the ordinary course of business, subject to court approval. The Trustee must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19–20 (9th Cir. B.A.P. 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19–20. Section 363(f) provides that estate property may be sold free and clear of liens, claims, and interests, providing one of the following conditions is satisfied:



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**CONT...**

**JW Wireless Inc.**

**Chapter 7**

- 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 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.

The Trustee's UCC search has not revealed any liens asserted against the Remnant Assets. Furthermore, the Remnant Assets include unknown assets of the estate and therefore cannot be delineated with particularity. The Trustee asserts that to the extent that any interests may be asserted in the Remnant Assets §363(f) has been satisfied.

The sale is approved free and clear of liens, claims, and interests, pursuant to § 363(f). Although the sale of unknown assets does not permit the kind of precise analysis that the Court normally undertakes when applying §363(f), sales of unknown assets have become common in bankruptcy, and have been recognized by courts as a useful and efficient means of allowing Trustees to complete the administration of the estate. Moreover, the Trustee has demonstrated sufficient business justification for the sale. The sale is consistent with the Trustee's statutory obligation to liquidate the estate's assets. Additionally, to the extent that any liens are asserted against the Remnant Assets in the future, the Court finds that any such lien would be in bona fide dispute. Pursuant to § 363(f)(4), the Court finds it appropriate to approve the sale, free and clear of liens, claims, and interests, with such liens, claims and interests (if any) to attach to the sale proceeds.

**Good Faith Determination Pursuant to 11 U.S.C. § 363(m)**

Having reviewed the declaration of the Trustee submitted in support of the Sale Motion, the Court finds that the sale to Oak Point was negotiated at arm's length and in good faith. Oak Point is entitled to the protections of § 363(m) as a good-faith purchaser.

**Auction Procedures**

The overbidding procedures set forth in the Sale Motion are approved as specified below.

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**Chapter 7**

The Sale Motion states that overbidders were required to contact the Trustee by no later than fourteen days prior to the hearing if they wished to submit an overbid. Each competing bidder is required to submit a cashier's check to the Trustee in the amount of their first overbid. Any overbidder is required to purchase the Remnant Assets under the same terms and conditions specified in the purchase agreement, other than the purchase price.

The Sale Motion further states that no auction would take place if the Trustee did not receive a timely bid from a qualified overbidder. As of the preparation of this tentative ruling, the Trustee has not advised the Court that any overbids were received. Therefore, the Court will approve the sale of the Remnant Assets to Oak Point, will not conduct an auction, and will waive appearances at the Sale Hearing.

### **III. Conclusion**

Based upon the foregoing, the Sale Motion is GRANTED.

The Trustee shall submit a conforming order, incorporating this tentative ruling by reference, within seven (7) days of the hearing. Notwithstanding Bankruptcy Rule 6004(h), the order approving the sale shall take immediate effect upon entry.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Any cash left over in the Trustee's fiduciary bank account one year from the date of closing of Debtor's case shall be part of the Remnant Assets.

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

JW Wireless Inc.

Represented By  
Michael Y Lo

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**CONT... JW Wireless Inc.**

**Chapter 7**

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Robert P Goe  
Thomas J Eastmond

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2:18-24737 Sang Hoon Lee

Chapter 7

#101.00 APPLICANT: DAVID M GOODRICH, Trustee

Hearing re [35] and [36] Chapter 7 Trustee's Final Report, Application for  
Compensation and Application(s) for Compensation

Docket 0

**Tentative Ruling:**

2/03/2020

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$1,759.26 [*see* Doc. No. 34]

Total Expenses: \$42.60 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Sang Hoon Lee

Represented By  
Michael H Yi

**Trustee(s):**

David M Goodrich (TR)

Pro Se

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**CONT... Sang Hoon Lee**

**Chapter 7**

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**Hearing Room 1568**

11:00 AM

**2:19-16549 Lynn M. Vargas**

**Chapter 11**

**#102.00** Hearing

RE: [70] Application for Compensation Gonzalez & Gonzalez Law, P.C.s First Interim Application for Fees and Costs; Declaration of Rosendo Gonzalez in Support Thereof for Rosendo Gonzalez, Debtor's Attorney, Period: 6/6/2019 to 1/7/2020, Fee: \$33,620.00, Expenses: \$3,579.86.

Docket 70

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-31-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Lynn M. Vargas

Represented By  
Rosendo Gonzalez  
Hatty K Yip

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11:00 AM

**2:19-16549 Lynn M. Vargas**

**Chapter 11**

**#103.00** Hearing  
RE: [71] Application for Compensation Leonard De Los Prados. CPA First Interim Application for Fees and Costs for Leonard De Los Prados, Accountant, Period: 6/4/2019 to 12/30/2019, Fee: \$21,065.50, Expenses: \$78.00.

Docket 71

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-31-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Lynn M. Vargas

Represented By  
Rosendo Gonzalez  
Hatty K Yip

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**Tuesday, February 4, 2020**

**Hearing Room 1568**

11:00 AM

**2:20-10264 450 S. Western, LLC, a California limited liability**

**Chapter 11**

**#104.00** Hearing  
RE: [3] Motion For Order (1) Approving Retention Agreement Of Wilshire Partners Of CA, LLC And (2) Authorizing Monthly Fee Statement Procedures And Payment, With Proof Of Service

Docket 3

**Tentative Ruling:**

2/03/2020

For the reasons set forth below, the Motion is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Motion for Order (1) Approving Engagement Agreement of Wilshire Partners of CA, LLC and (2) Authorizing Monthly Fee Statement Procedures and Payment (the "Motion") [Doc. No. 3]
  - a) First Day Declaration of Richard J. Laski [Doc. No. 7]
  - b) Supplemental Declaration of Richard J. Laski in Support of [Motion] (the "Supplemental Laski Decl.") [Doc. No. 40]
  - c) Notice of [Motion] [Doc. No. 4]
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

On January 10, 2020 (the "Petition Date"), 450 S. Western, LLC (the "Debtor") filed a voluntary Chapter 11 petition.

The Debtor owns and operates a three-story, 80,316 square foot shopping center—commonly known as California Marketplace—located at the intersection of South Western Avenue and 5th Street. The shopping center serves the Los Angeles Korean community and contains 28 stores. As of the Petition Date, the shopping center had a 98% occupancy rate.

The Debtor moves for an order approving a pre-petition agreement (the "Agreement") to engage Richard J. Laski of Wilshire Partners of CA, LLC ("Wilshire Partners") as the Debtor's Chief Restructuring Officer (the "CRO"). The Debtor seeks authorization to pay the CRO under § 363. The Debtor does not seek to employ the



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**CONT... 450 S. Western, LLC, a California limited liability**

**Chapter 11**

CRO as an estate professional under § 327.

The material terms of the Agreement are as follows:

- 1) Laski shall not be paid more than \$30,000 per month, although any fees earned in excess of \$30,000 per month may be rolled over and paid in subsequent months, in the event that subsequent monthly fees are less than \$30,000.
- 2) On the fifteenth day of each month, Wilshire Partners shall file and serve a statement of fees earned during the preceding calendar month (the “Fee Statement”). Any interested party shall have ten days to object to the Fee Statement. If an objection is filed, a hearing on approval of the Fee Statement will be set by the Debtor, and the fees shall be subject to review and approval by the Court. If no objection is filed, or if an objection is filed but is resolved, the Debtor shall be authorized to pay Wilshire Partners, provided that such payments are consistent with the Debtor’s cash collateral budget.

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Section 327(a) provides that the Debtor may employ professionals upon approval of the Court. For purposes of § 327(a), “‘professional person’ is limited to persons in those occupations which play a central role in the administration of the debtor proceeding. Court approval is required for the retention of attorneys, accountants, appraisers, auctioneers and persons in other professions intimately involved in the administration of the estate.” *Matter of Delta Petroleum (P.R.) Ltd.*, 164 B.R. 425, 427–28 (Bankr. D.P.R. 1994).

Section 363(b) authorizes the Debtor to use property of the estate outside of the ordinary course of business. Courts have authorized the retention of CROs under § 363(b) rather than under § 327(a). As explained by one court:

The role of a CRO is often critical to success in bankruptcy. The CRO is responsible for leading the company through the bankruptcy process with the help of debtor’s counsel. The reason the CRO issue continually arises in chapter 11 cases is because the role of CRO is critical and necessary in many chapter 11 cases where previous management has been released or has

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**450 S. Western, LLC, a California limited liability**  
deserted....

**Chapter 11**

The benefits of using 11 U.S.C. § 363(b) are that the CRO does not have to be disinterested, the CRO is not required to file fee applications for review under 11 U.S.C. § 330 and the CRO can be covered by the existing directors' and officers' liability insurance or otherwise be indemnified.

*In re Ajubeo LLC*, No. BR 17-17924-JGR, 2017 WL 5466655, at \*3 (D. Colo. Sept. 27, 2017).

In response to concerns raised by the United States Trustee (the "UST"), the CRO filed a supplemental declaration in support of the Motion (the "Supplemental Decl."). The Supplemental Decl. provides in relevant part:

For the avoidance of doubt neither I nor Wilshire partners have been engaged to provide valuation, accounting, or investment banking services to the Debtor. Rather, as provided for in the CRO Motion, I have been engaged as the chief restructuring officer ("CRO") to run the Debtor's business in this chapter 11 bankruptcy case, provide direction to estate professionals and make executive decisions with respect to the Company.

Supplemental Decl. at ¶ 3.

The UST has not filed an objection to the Motion. No other party has filed an objection to the Motion.

The Court will approve the Agreement pursuant to § 363(b) and will not require the CRO to seek employment under § 327(a). The provisions of the Agreement contain sufficient safeguards to insure that the CRO's fees are proportionate to the services rendered. Specifically, parties in interest have an opportunity to object to the CRO's fees, and any objections will be adjudicated by the Court. The CRO's monthly fees are capped at \$30,000. Further, payments to the CRO must be consistent with the Debtor's cash collateral budget.

The CRO will not provide valuation, accounting, or investment banking services to the Debtor. Given this limitation upon the scope of the CRO's services, the Court finds that the Debtor is not required to retain the CRO as a "professional person" pursuant to § 327(a). For purposes of § 327(a), a "professional person" is limited to those individuals who provide services that "play a central role in the administration of the debtor proceeding." *Delta Petroleum*, 164 B.R. at 427-28. Although the CRO's services will have an effect upon the estate's administration, they will not be central to

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**CONT... 450 S. Western, LLC, a California limited liability Chapter 11**

estate administration because the CRO will not provide valuation, accounting, or investment banking advice.

In addition, the Court notes that the retention of CROs upon terms substantially similar to those proposed here has been approved in other cases in this district. *See, e.g., In re Westcliff Medical Laboratories, Inc.* [Case No. 8:10-bk-16743-TA – Dkt. No. 125]; *In re S.B. Restaurant Co.*, [Case No. 8:14-bk-13778-ES – Dkt. No. 302]; *In re Fatburger Restaurants of California, Inc.*, [Case No. 09-13964-GM – Dkt. No. 506]; *In re Visiting Nurse Association of the Inland Counties*, [Case No. 6:18-bk-16908-MH – Dkt. No. 326]; *In re PME Mortgage Fund, Inc.*, [Case No. 6:17-bk-15082-SY – Dkt. No. 64]; *In re Barley Forge Brewing Company, LLC* [Case No. 8:19-13920-TA – Dkt. No. 63].

Based upon the foregoing, the Motion is GRANTED. Within seven days of the hearing, the Debtor shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut

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10:00 AM

2:10-12736 Muscle Improvement Inc.

Chapter 7

#1.00 APPLICANT: Trustee: PETER J MASTAN

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee [*see* Doc. No. 1601], as follows (amounts previously paid on an interim basis, if any, are now deemed final):

**Total Fees:** \$6,138.37 approved, but payment shall be limited to \$3,667.21 per Trustee's request

**Total Expenses:** \$21.71 approved, but payment shall be limited to \$12.97 per Trustee's request

**United States Trustee Fees:** \$5,325 approved, but payment shall be limited to \$3,181.25 per Trustee's request

**Franchise Tax Board:** \$19,472.23 approved, but payment shall be limited to \$11,633.19 per Trustee's request

**International Sureties, Ltd.:** \$133.49 approved

**Prior Chapter Administrative Expenses [Note 1]**

Andrea Henderson: \$315

Susan Lee Phillips: \$1,000

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**Chapter 7**

Bill Bartz: \$310

Carmina Rios Galvan: \$2,025

Cecilia M. McClure: \$350

Petra Polinkova: \$200

Randall Refrigeration: \$12,698.38

Franchise Tax Board (Other): \$1,033.04

Internal Revenue Service: \$15,869.31

City of Hawthorne: \$77,641.99 [**Note 2**]

Employment Development Department: \$14,014.74

**Note 1:** Other fees are approved in the amounts set forth above, but payment with respect to these fees will be limited to \$0 per Trustee's request.

**Note 2:** Based on its review of the Claims Register, the Court believes the City of Hawthorne's priority claim was erroneously duplicated in the Trustee's Final Report. See Trustee's Final Report at 67.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Muscle Improvement Inc.

Represented By

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**CONT... Muscle Improvement Inc.**

**Chapter 7**

Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
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10:00 AM

2:10-12736 Muscle Improvement Inc.

Chapter 7

#2.00 APPLICANT: Attorney for Trustee: SMILEY WANG-EKVALL LLP

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below. [Note 1]

**Total Fees:** \$52,975 approved, but payment shall be limited to \$35,665.64 per Trustee's request. *See* Trustee's Final Report, 2:10-bk-12736-ER, Doc. No. 1601; *see also* Trustee's Final Report, 2:10-bk-12756-ER, Doc. No. 115.

**Expenses:** \$1,200.11 approved, but payment shall be limited to \$807.98 per Trustee's request. *See* Trustee's Final Report, 2:10-bk-12736-ER, Doc. No. 1601; *see also* Trustee's Final Report, 2:10-bk-12756-ER, Doc. No. 115.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Court notes that Applicant requests allowances of \$57,691.50 in fees and \$1,312.39 in expenses in its fee application. These figures are inconsistent with Applicant's requested amounts as indicated in the Trustee's Final Reports for the three

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**Chapter 7**

jointly administered cases at issue. *See In re Muscle Improvement, Inc.*, 2:10-bk-12736-ER, Doc. No. 1601 (indicating total fees of \$26,487.50 and expenses of \$600.06); *see also In re Muscle Improvement, Inc. – Commerce, Inc.*, 2:10-bk-12756-ER, Doc. No. 115 (indicating total fees of \$26,487.50 and expenses of \$600.05). For the purposes of this fee application, the Court will rely on the combined figures provided in both of Trustee's Final Reports for the above-referenced cases.

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

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall



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Chapter 7

#3.00 APPLICANT: Attorney for Trustee: WEILAND GOLDEN SMILEY WANG

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below. **[Note 1]**

**Total Fees:** \$23,391 approved, but payment shall be limited to \$15,748.09 per Trustee's request. *See* Trustee's Final Report, 2:10-bk-12736-ER, Doc. No. 1601; *see also* Trustee's Final Report, 2:10-bk-12756-ER, Doc. No. 115.

**Expenses:** \$3,859.26 approved, but payment shall be limited to \$2,500.72 per Trustee's request. *See* Trustee's Final Report, 2:10-bk-12736-ER, Doc. No. 1601; *see also* Trustee's Final Report, 2:10-bk-12756-ER, Doc. No. 115.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Court notes that Applicant requests allowances of \$24,002 in fees and \$2,572.84 in expenses in its fee application. These figures are inconsistent with Applicant's requested amounts as indicated in the Trustee's Final Reports for the three

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**Chapter 7**

jointly administered cases at issue. *See In re Muscle Improvement, Inc.*, 2:10-bk-12736-ER, Doc. No. 1601 (indicating total fees of \$11,695.50 and expenses of \$2,572.84); *see also In re Muscle Improvement, Inc. – Commerce, Inc.*, 2:10-bk-12756-ER, Doc. No. 115 (indicating total fees of \$11,695.50 and expenses of \$1,286.42). For the purposes of this fee application, the Court will rely on the combined figures provided in both of Trustee's Final Reports for the above-referenced cases.

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

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

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**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#4.00** APPLICANT: Accountant for Trustee: SLBiggs, a division of SingerLewak

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

**Total Fees:** \$30,380.50 approved, but payment shall be limited to \$19,946.24 per Trustee's request. *See* Trustee's Final Report, 2:10-bk-12736-ER, Doc. No. 1601; *see also* Trustee's Final Report, 2:10-bk-12756-ER, Doc. No. 115.

**Expenses:** \$682.76 approved, but payment shall be limited to \$454.74 per Trustee's request. *See* Trustee's Final Report, 2:10-bk-12736-ER, Doc. No. 1601; *see also* Trustee's Final Report, 2:10-bk-12756-ER, Doc. No. 115.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Muscle Improvement Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#5.00 FEES: UNITED STATES TRUSTEE**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#6.00 OTHER: International Sureties TLD**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#7.00 OTHER: FRANCHISE TAX BOARD**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#8.00 OTHER PROFESSIONAL FEES: ANDREA HENDERSON**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, February 5, 2020**

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10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#9.00 OTHER PROFESSIONAL FEES: SUSAN LEE PHILLIPPS**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
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Los Angeles  
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10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#10.00 OTHER PROFESSIONAL FEES: BILL BARTZ**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#11.00 OTHER PROFESSIONAL FEES: CARMINA RIOS GALVAN**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#12.00 OTHER PROFESSIONAL FEES: CECILIA M MCLURE**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#13.00 OTHER PROFESSIONAL FEES: PETRA POLINKOVA**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#14.00 OTHER PROFESSIONAL FEES: RANDALL REFRIGERATION**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#15.00 OTHER: FRANCHISE TAX BOARD**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#16.00 OTHER: INTERNAL REVENUE SERVICE**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#17.00 OTHER: CITY OF HAWTHORNE**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12736 Muscle Improvement Inc.**

**Chapter 7**

**#18.00 OTHER: EMPLOYMENT DEVELOPMENT DEPARTMENT**

Hearing re [1601] and [1602] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement Inc.

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12756 Muscle Improvement - Commerce Inc.**

**Chapter 7**

**#19.00 APPLICANT: Trustee: PETER J MASTAN**

Hearing re [115] and [116] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee [*see* Doc. No. 115], as follows (amounts previously paid on an interim basis, if any, are now deemed final):

**Total Fees:** \$5,890.90 approved, but payment shall be limited to \$4,412.78 per Trustee's request

**Total Expenses:** none requested

**United States Trustee Fees:** \$4,875 approved, but payment shall be limited to \$3,651.58 per Trustee's request

**Franchise Tax Board:** \$3,428.48 approved, but payment shall be limited to \$2,568.22 per Trustee's request

**Prior Chapter Administrative Expenses [Note 1]**

Dynamics Builders-Cam: \$233,732

Direct Capital Corporation: \$3,592.72

City of Hawthorne: \$77,641.99

Brittany Breanne Ayon (Administrative): \$1,000

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**CONT... Muscle Improvement - Commerce Inc.**

**Chapter 7**

**Note 1:** These fees are approved in the amounts set forth above, but payment with respect to these fees will be limited to \$0 per Trustee's request.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Muscle Improvement - Commerce

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12756 Muscle Improvement - Commerce Inc.**

**Chapter 7**

**#20.00 APPLICANT: Attorney for Trustee: SMILEY WANG-EKVALL, LLP**

Hearing re [115] and [116] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 2, incorporated in full by reference.

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

**Debtor(s):**

Muscle Improvement - Commerce

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12756 Muscle Improvement - Commerce Inc.**

**Chapter 7**

**#21.00** APPLICANT: Accountant for Trustee: SLBiggs, a division of SingerLewak

Hearing re [115] and [116] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 4, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Muscle Improvement - Commerce

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12756 Muscle Improvement - Commerce Inc.**

**Chapter 7**

**#22.00 FEES: UNITED STATES TRUSTEE**

Hearing re [115] and [116] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 19, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Muscle Improvement - Commerce

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-12756 Muscle Improvement - Commerce Inc.**

**Chapter 7**

**#23.00 OTHER: FRANCHISE TAX BOARD BANKRUPTCY SECTION MS**

Hearing re [115] and [116] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 19, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Muscle Improvement - Commerce

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Hearing Room 1568**

10:00 AM

**2:10-12756 Muscle Improvement - Commerce Inc.**

**Chapter 7**

**#24.00 APPLICANT: Attorney for Trustee: WEILAND GOLDEN SMILEY WANG**

Hearing re [115] and [116] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 3, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Muscle Improvement - Commerce

Represented By  
Robert M Yaspan

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, February 5, 2020

Hearing Room 1568

10:00 AM

2:18-16095 Pepper Carlson

Chapter 7

#25.00 HearingRE: [35] Motion to Approve Compromise Under Rule 9019 ; and for Approval of Payment of Contingency and Special Counsel Fees (Dye (TR), Carolyn)

Docket 35

**Tentative Ruling:**

2/4/2020

For the reasons set forth below, the Settlement Agreement is APPROVED and the Motion is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Chapter 7 Trustee's Motion for Approval of (i) Settlement Agreement and Release of Claims Arising Out of State Court Case (18STCV01848) and (ii) for Approval of Payment of Contingency and Special Counsel Fees (the "Motion")
  - a) Notice of [Motion] [Doc. No. 36]
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

The Chapter 7 Trustee (the "Trustee") seeks approval of a *Settlement Agreement and Release* (the "Settlement Agreement"). No opposition to the Motion is on file.

Pepper Carlson (the "Debtor") filed a voluntary Chapter 7 petition on May 25, 2018. The Debtor received a discharge on September 4, 2018, and the Debtor's case was closed on September 5, 2018. The case was reopened on February 7, 2019, to provide the Trustee the opportunity to administer an undisclosed asset—the Debtor's claims for wage and hour violations, asserted in an action pending before the Los Angeles Superior Court (the "State Court Action").

On July 24, 2019, the Court authorized the Trustee to employ Akerman LLP ("Akerman") to estimate the value of the State Court Action. Doc. No. 28 (the "Akerman Employment Order"). Akerman was employed pursuant to § 328, and its compensation is capped at \$4,500 absent further order of the Court. The Trustee selected Akerman because it typically defends employers in wage and hour litigation, and the Trustee wanted a valuation estimate from the defense perspective.

On September 24, 2019, the Court authorized the Trustee to employ Danny

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Central District of California  
Los Angeles  
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**CONT... Pepper Carlson**

**Chapter 7**

Yadision to prosecute the estate's interest in the State Court Action. Doc. No. 33 (the "Yadision Employment Order"). Yadision was employed on a contingency fee basis pursuant to § 328, and is entitled to receive 40% of the gross recovery in the State Court Action.

After consulting with Akerman, the Trustee decided to reject an early settlement offered by the Defendants, and requested that Yadision continue to prosecute the State Court Action. The parties subsequently reached the Settlement Agreement, which will provide the estate net proceeds of \$66,022.50. The material terms of the Settlement Agreement are as follows:

- 1) The total settlement amount is \$135,000 (the "Settlement Amount"). **[Note 1]**
- 2) Of the Settlement Amount, \$6,750 will be attributed to the settlement and release of Plaintiff's claims under the Private Attorneys General Act ("PAGA") (Plaintiff asserts the PAGA claims as a representative of other similarly situated employees). Of the \$6,750 attributable to settlement of the PAGA claims, \$5,062.50 will be paid to the California Labor & Workforce Development Agency.

The Trustee also seeks approval of the payment of professional fees to Yadision and Akerman. The Trustee seeks to pay Yadision 40% of the Settlement Amount, pursuant to the Yadision Employment Order. The Trustee seeks authorization to pay Akerman \$6,915. The Trustee argues that fees in excess of the \$4,500 cap set forth in the Akerman Employment Order are warranted because Akerman's contentions regarding the State Court Action's value helped facilitate the Settlement Agreement.

## **II. Findings and Conclusions**

### **The Settlement Agreement is Approved**

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the

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CONT... **Pepper Carlson**

**Chapter 7**

compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Settlement Agreement is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

*Probability of Success on the Merits*

This factor weighs in favor of approving the Settlement Agreement. Litigating the State Court Action through trial would expose the estate to substantial uncertainty. The outcome of a trial of the State Court Action depends upon the Debtor's credibility with respect to certain key facts, such as the amount of overtime hours the Debtor worked, the circumstances surrounding the retaliation that the Debtor believed she experienced based upon her employer's alleged failure to accommodate an illness, and the facts pertaining to the Debtor's illness and recovery. The uncertainty regarding the outcome of a trial strongly supports approval of the Settlement Agreement. *See In re Aloha Racing Found., Inc.*, 257 B.R. 83, 88 (Bankr. N.D. Ala. 2000) (internal citations omitted) ("The burden is not on ... the Trustee to conclusively establish that he would be successful at a trial on these issues. That would defeat the purpose of settlement and would eliminate any cost savings from the settlement. 'All that he must do is establish to the reasonable satisfaction of [this Court] that, all things considered, it is prudent to eliminate the risks of litigation to achieve specific certainty though it might be considerably less (or more) than were the case fought to the bitter end.'").

*Complexity of the Litigation*

This factor weighs in favor of approving the Settlement Agreement. As discussed above, the litigation involves many disputed issues of fact. Trial would be time consuming and expensive.

The possibility that additional litigation might yield a result nominally more favorable to the estate cannot be ruled out. Yet any such result obtained through litigation would be a pyrrhic victory from the perspective of the estate and creditors, because the additional administrative costs associated with the litigation would on net leave the estate worse off.

*Paramount Interests of Creditors*

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CONT... **Pepper Carlson**

**Chapter 7**

This factor weighs in favor of approving the Settlement Agreement. The Settlement Agreement will yield net proceeds to the estate of \$66,022.50 while avoiding additional costly litigation. No creditors have objected to approval of the Settlement Agreement.

*Difficulties To Be Encountered in the Manner of Collection*

This factor weighs in favor of approving the Settlement Agreement. The Settlement Agreement will allow the estate to avoid the costs associated with enforcing any judgment that might be obtained after trial.

**The Trustee is Authorized to Pay the Professional Fees of Yadidsion and Akerman from the Settlement Amount**

In the Yadidsion Employment Order, the Court authorized the Trustee to pay Yadidsion 40% of the gross amount recovered in the State Court Action, pursuant to § 328. Therefore, the Trustee is authorized to pay Yadidsion's professional fees from the Settlement Amount.

In the Akerman Employment Order, the Court authorized the Trustee to pay Akerman up to \$4,500, pursuant to § 328. The Court stated that fees in excess of \$4,500 could not be paid "absent further order of the Court." Akerman Employment Order at ¶ 2.

Akerman seeks fees in the amount of \$6,915. The Trustee supports Akerman's fee request, and states that Akerman's valuation analysis helped facilitate the Settlement Agreement.

Prior to the Trustee's engagement of Akerman, the Defendants had offered only a *de minimis* settlement. The Court finds that Akerman's independent valuation of the Plaintiff's claims played a key role in facilitating the Settlement Agreement. Specifically, Akerman's valuation—derived from the perspective of counsel with experience defending employers against wage and hour claims—corroborated Yadidsion's position as to the value of Plaintiff's claims. Accordingly, the Court finds it appropriate to increase the \$4,500 cap and allow Akerman to receive fees in the amount of \$6,915.

**III. Conclusion**

Based upon the foregoing, the Motion is GRANTED. Within seven days of the hearing, the Trustee shall submit an order incorporating this tentative ruling by reference.

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**CONT... Pepper Carlson**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

There is a discrepancy between the Motion and the Settlement Agreement as to the Settlement Amount. (The Motion states that the Settlement Amount is \$130,000; the Settlement Agreement states that the Settlement Amount is \$135,000.) The Court relies upon the figures set forth in the Settlement Agreement.

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

Pepper Carlson

Represented By  
Heather J Canning

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Jeffrey S Horton Thomas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-17051 Marlon Camar Salamat and Daisy Anne Boiser Salamat**

**Chapter 7**

**#26.00** HearingRE: [43] Motion For Order Confirming Discharge Injunction Does Not Apply to Debtor And That State Court Litigation May Proceed Against Debtors with Proof of Service

Docket 43

**Tentative Ruling:**

2/4/2020

**Notice:** OK

For the reasons stated below, the Court finds that the discharge injunction does not bar Movant from prosecuting the State Court Action against the Debtors.

**Pleadings Filed and Reviewed:**

1. Notice of Motion and Motion for Order Confirming Discharge Injunction does not Apply to Debtors and that State Court Litigation May Proceeding Against Debtors (the "Motion") [Doc. No. 43]
2. Opposition to Motion for Order Confirming Discharge Injunction does not Apply to Debtors and that State Court Litigation Can Proceed (the "Opposition") [Doc. No. 45]
3. Reply to Opposition to Motion for Order Confirming Discharge Injunction does not Apply to Debtors and that State Court Litigation Can Proceed (the "Reply") [Doc. No. 46]
4. Order Granting Motion for Order Confirming Order of Discharge does not Apply to Corporate Entities, that No Stay was in Effect under 11 U.S.C. § 362(c)(4)(A)(ii), and that State Court Litigation may Proceed Against Corporate Defendants (the "November 22 Order") [Doc. No. 41]
5. Notice of Motion and Motion for Order Confirming Order of Discharge does not Apply to Corporate Entities, that No Stay was in Effect under 11 U.S.C. § 362(c)(4)(A)(ii), and that State Court Litigation may Proceed Against Corporate Defendants (the "October 25 Motion") [Doc. No. 37]

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**Chapter 7**

6. Discharge Order [Doc. No. 28]
7. Complaint by Angela Sandra Legaspi Fernando against Marlon Camar Salamat and Daisy Anne Boiser Salamat, Adversary Case 2:19-ap-01411-ER [Adv. No. 1]
8. Chapter 7 Petition [Doc. No. 1]

## **I. Facts and Summary of Pleadings**

### **Background**

Marlon Camar Salamat ("Marlon") and Daisy Anne Boiser Salamat ("Daisy") (collectively, the "Debtors") filed a voluntary Chapter 7 case on June 17, 2019 (the "Petition") [Doc. No. 1] [**Note 1**]. On September 17, 2019, unsecured creditor Angela Sandra Legaspi Fernando (the "Movant") timely commenced a complaint seeking a non-dischargeability judgment against Debtors pursuant to §§ 523(a)(2), (a)(4), and (a)(6) (the "Dischargeability Action"). On September 30, 2019, the Debtors each obtained a discharge, and the case was closed on October 16, 2019. On Movant's request, the case was reopened on October 22, 2019 [Doc. No. 35].

On October 25, 2019, the Movant filed a *Motion for Order Confirming Order of Discharge does not Apply to Corporate Entities, that No Stay was in Effect under 11 U.S.C. § 362(c)(4)(A)(ii), and that State Court Litigation may Proceed Against Corporate Defendants* (the "October 25 Motion"). The October 25 Motion sought to determine whether Movant could litigate an action pending at the Los Angeles Superior Court, captioned *Angela Fernando v. Marlon Salamat, et al.*, Case No. BC722168 (the "State Court Action") with respect to two corporate defendants, Iconcare Rehab, Inc. ("Iconcare") and At Home Therapy, LLC ("At Home") (collectively, the "Entities"). On commencement documents, the Debtors listed Iconcare and At Home as *doing business as* ("dba") entities. *See* Petition at 2. The State Court Action generally alleges that Marlon, whose purportedly wrongful conduct was occasionally perpetrated through At Home, fraudulently induced Movant to invest thousands of dollars, in money and services, for the incorporation and operation of Iconcare [**Note 2**]. By way of its November 22, 2019 order [Doc. No. 41] (the "November 22 Order"), the Court granted the October 25 Motion and adopted the tentative ruling as its final ruling (the "Court's Ruling").

### **Summary of the Motion**



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On January 12, 2020, the Movant filed the Motion by which she now requests authorization to enter a request for entry of default against the Debtors in the State Court Action. Alternatively, Movant seeks guidance from this Court on the extent of her ability to prosecute the State Court Action against the Debtors.

Notwithstanding Debtors' discharge, Movant argues that she is entitled to enter default judgment against them in the State Court Action for two reasons. The Movant begins by relying on "*In re Ruvalcaba*" in support of the proposition that "the discharge injunction does not apply to debts that have yet to be discharged." *See* Motion at 4 (erroneously citing to "*In re Ruvalcaba*" instead of *In re Munoz (Ruvalcaba v. Munoz)*, 287 B.R. 546, 555-56 (B.A.P. 9th Cir. 2002)). The Movant argues that the discharge injunction ceased to apply to her claims at the time the Dischargeability Action was filed. Movant's rationale is confusingly articulated, but the following summary represents the Court's best understanding of Movant's position. The Movant's argument focuses upon § 524(a)(1)'s language that— "[a] discharge in a [Chapter 7 case] voids any judgment *at any time obtained*". *See* Motion at 4 (emphasis added). Accordingly, Movant seemingly reasons that the discharge injunction does not prevent her from proceeding against Debtors in the State Court Action because otherwise § 524(a)(1) would provide that a "discharge operates to void any non-bankruptcy case or judgment prior to the order for relief." *Id.* Unfortunately, the Movant fails to expand on her argument or meaningfully discuss case law that would further clarify her position [**Note 3**]. In sum, the Court understands that Movant's position is that the debts at issue are not protected by the discharge injunction, and she is entitled to the requested relief, because of (a) the timely filing of the adversary proceeding, (b) the voidability of future judgments under § 524(a)(1), or (c) a combination of (a) and (b).

when it ruled the following with respect to the October 25 Motion: "[t]o the extent that the Movant obtains a judgment in the State Action for which the Debtors are personally liable, such judgment will be unenforceable pending resolution of the Adversary Proceeding." *See* Court's Ruling [Doc. No. 39] at 91 (adopted as the Court's final ruling through the November 22 Order) [**Note 4**].

**Summary of the Opposition**

On January 17, 2020, the Debtors timely filed an opposition to the Motion (the

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"Opposition"). The Court also finds the Opposition difficult to understand, but the following summary synthesizes what the Court believes to be the most salient, relevant points. The Debtors accuse Movant of engaging in "forum shopping," "grossly improper" conduct, and "frivolous" motion practice. *See* Opposition at 4-6. In the main, the Debtors counter that either the Dischargeability Action or the November 22 Order, or both, have a preclusive effect with respect to the relief requested in the Motion. The Opposition contends that the November 22 Order must be given *res judicata* effect because "[i]t is a final order that [Movant] did not appeal." *See* Opposition at 4-5. In support, the Debtors rely on the Ninth Circuit Bankruptcy Appellate Panel's decision in *In re Boukatch*. 533 B.R. 292, 299 (B.A.P. 9th Cir. 2015) ("res judicata precludes a creditor from bringing a collateral attack of that order") (internal citations omitted). The Opposition also argues that Movant unreasonably misinterprets the Court's Ruling, which expressly authorized the Movant to proceed only with respect to the Entities. Finally, the Debtors request that the Court award them \$2,500 in attorney's fees as they were compelled to defend Movant's allegedly frivolous motion that is unsupported by legal authority, unreasonably interprets the Court's Ruling, and otherwise presents an "incomprehensible position." *See* Opposition at 5-6.

**Summary of the Reply**

In her timely-filed Reply, the Movant responded to Debtors' main points more cohesively than she presented her position in the moving papers. First, Movant rebuts that Debtors have failed to comply with FRBP 9011's rules with respect to their request of \$2,250 in attorney's fees. As prescribed in FRBP 9011(c)(1)(A), and reiterated in *Barber v. Miller*, the Movant propounds that a motion for sanctions may not be filed in court, unless such motion is first served upon the violating party, and that the violating party is then given twenty-one (21) days to cure the perceived offense. According to the Movant, the Debtors did not follow any such procedure. In any event, the Movant maintains that the Motion is not frivolous because she seeks to clarify the language in the Court's Ruling. Movant states this Motion is pressing in light of an e-mail sent by Debtors' counsel to Movant's state court counsel, who cautions that seeking Debtors' default in the State Court Action would result in violation of the discharge injunction. *See* Reply, Ex. A (Debtors' counsel's letter). Additionally, the Movant rejects the notion that she aims to bypass the Dischargeability Action by prosecuting the State Court Action, which has been pending for over a year. Similarly, Movant claims that she is not asking for a

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reconsideration of the November 22 Order, but that she simply wishes for clarification; therefore, she argues that *res judicata* is inapplicable.

## **II. Findings of Fact and Conclusions of Law**

### **A. The Discharge Injunction Does Not Bar Continued Prosecution of the State Court Action**

The Movant requests guidance from this Court as to whether continued prosecution of the State Court Action violates the discharge injunction; Movant, however, does not request a declaratory judgment [Note 5]. Debtors counter that the inapplicability of the discharge injunction is not supported by law, and that such continued prosecution is superseded by the Dischargeability Action.

To clarify whether or not the State Court Action may proceed, the Court determines that Movant's continued prosecution of the State Court Action against the Debtors does not violate the discharge injunction. As one court has explained, where a creditor timely files a dischargeability complaint, the debt that is the subject of that complaint is not discharged until judgment is entered in the debtor's favor. Therefore, until such judgment is entered, the discharge injunction does not apply to the debt:

The permanent injunction provided by § 524(a)(2) enjoining creditor actions against debts discharged under § 727 must be read in conjunction with § 727(b), which provides: **Except as provided in section 523 of this title**, a discharge under subsection (a) of this section discharges the debtor from all debts that arose before the date of the order for relief under this chapter [.]” (Emphasis added). Thus, the discharge injunction does not enjoin actions of creditors who successfully invoke § 523, which provides a list of exceptions to discharge....

In other words, upon the timely filing of a complaint objecting to dischargeability of a debt under § 523, the discharge injunction does not apply with respect to that debt until the bankruptcy court makes a determination as to the dischargeability of that debt.

Section 523 compels this result. Section 523(a) provides, in pertinent part, that “[a] discharge under section 727 ... does not discharge an individual debtor from any debt,” and then goes on to list the 19 exceptions, which includes paragraphs (2), (4) and (6)...

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Hence, a debt is not discharged if a timely complaint is filed objecting to discharge of that debt under § 523(a)(2) (fraud), or (4)(fraud or defalcation while acting in fiduciary capacity, larceny, or embezzlement) or (6) (willful and malicious injury) unless and until the bankruptcy court denies the objection.

*Kvassay v. Kvassay (In re Kvassay)*, No. 2:12-BK-40267-DS, 2016 WL 5845672, at \*8 (B.A.P. 9th Cir. Oct. 6, 2016) (emphasis in original); *see Buke, LLC v. Eastberg (In re Eastberg)*, 447 B.R. 624, 633-34 (B.A.P. 10th Cir. 2011) (bankruptcy courts may exercise discretion to determine, on a case-by-case basis, whether the “validity and extent of a debt” should be litigated in state court or bankruptcy court); *see also In re Pitts*, 497 B.R. 73 (Bankr. C.D. Cal. 2013), *aff’d*, 515 B.R. 317 (C.D. Cal. 2014), *aff’d*, No. 14-56502, 2016 WL 4598591 (9th Cir. Sept. 2, 2016) (“[U]pon the timely filing of a complaint objecting to the dischargeability of a debt, the discharge injunction does not apply with respect to that debt until the Court makes a determination of the dischargeability of the debt”).

Here, the Movant timely filed the Dischargeability Action. This Court has yet to ascertain the dischargeability of the debts at issue; accordingly, such debts have not been discharged, and the discharge injunction does not apply to them. Moreover, the discharge order (*Official Form 318*) [Doc. No. 28] (the "Discharge Order") entered in this bankruptcy proceeding notifies debtors that any debts subject to a § 523 determination are excepted from discharge. The Discharge Order provides that Debtors are entitled to a "discharge under 11 U.S.C. § 727," but it also cautions that "most debts are covered by the discharge, but not all." Page 2 of the Discharge Order states that non-dischargeable debts include "debts that the bankruptcy court has decided or will decide are not discharged in this bankruptcy case." In reaching this finding, it is this Court's objective to optimize administration of the adversary proceeding and to conserve judicial resources. Before this Court can adjudicate the Dischargeability Action, it is paramount that the State Court Action proceed to a final judgment. It would not be an efficient use of judicial resources for this Court to adjudicate the Debtors' liability, if any, on the claims asserted in the State Court Action: most of these claims arise under non-bankruptcy law and can be most efficiently resolved in state court, and relatedly, reaching a final judgment in such proceeding requires the adjudication of issues against defendants other than the Debtors. The best use of judicial resources is for Movant to obtain a final judgment against the Debtors in the State Court Action, and then to return to this Court for a

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determination as to whether that judgment is excepted from discharge.

The Debtors' opposing arguments are not persuasive. First, the Court finds no merit in the contention that Movant is forum shopping and seeks to concurrently litigate issues here and in state court. The proposition that bankruptcy courts' exclusive jurisdiction over dischargeability issues somehow prohibits state courts from determining facts germane to the dischargeability inquiry is a "fundamental misunderstanding." See *In re Lakhany*, 538 B.R. 555, 560 (B.A.P. 9th Cir. 2015). In fact, "bankruptcy courts regularly make non-dischargeability determinations, via issue preclusion, on facts determined elsewhere." *Id.* (referencing *Grogan v. Garner*, 498 U.S. 279, 290 (1991), where the Supreme Court overruled the reversal of a bankruptcy court's judgment of non-dischargeability predicated on issue preclusion). For this reason, the Court also rejects the argument that Movant improperly seeks to circumvent the Dischargeability Action. Further, the Court disagrees that the Motion was frivolously filed, because, as explained above, Movant has effectively asked to Court to engage in an inquiry not previously contemplated. Last, Debtors' theory that the November 22 Order precludes the relief sought herein by *res judicata* is not well taken. The October 25 Motion did not directly place at issue whether Movant could pursue the State Court Action against Debtors; accordingly, the Court limited its legal and factual findings to the application of the discharge injunction with respect to the Entities only. Therefore, *res judicata* is inapposite. [Note 6]

In conclusion, the discharge injunction does not bar the Movant from obtaining a final judgment against Debtors in the State Court Action. In sum, the Court aims to promote the efficient administration of justice by permitting the state court to liquidate the amount of Movant's claims, while preserving its exclusive jurisdiction to adjudicate whether such claims are non-dischargeable. The Court emphasizes as it did before: unless and until this Court determines that the judgment is excepted, the Movant may not take any action to enforce such judgment.

**B. The Debtors are Not Entitled to an Award of Attorney's Fees**

A bankruptcy court has inherent power to award sanctions "against a party who willfully disobeys a court order or acts in bad faith, 'which includes a broad range of willful improper conduct.' To impose inherent power sanctions, a court must find that a party acted 'in bad faith, vexatiously, wantonly, or for oppressive reasons.'" *Miller v. Cardinale (In re Deville)*, 280 B.R. 483, 495-96 (B.A.P. 9th Cir. 2002) *aff'd*

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*sub nom. In re DeVille*, 361 F.3d 539 (9th Cir. 2004).

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The Debtors request that the Movant be required to pay attorney's fees for filing this Motion. The Court cautions both parties that it looks with disfavor upon requests for sanctions. The Court understands the adversarial position of the parties. However, requests for sanctions are seldom an appropriate means of advancing a party's position in the litigation. The Court will impose sanctions only if all procedural requirements have been fastidiously complied with, and then only if the party against whom sanctions are sought has engaged in egregiously improper conduct. The Court does not consider Movant's request for clarification to have been made in bad faith. Therefore, Debtors' request for sanctions is denied.

Status of the Dischargeability Action

A status conference in the Dischargeability Action took place on December 10, 2019, at which time, the parties failed to apprise the Court of any updates regarding the State Court Action. In view of the findings made herein, a continued status conference will be conducted on **May 12, 2020 at 10:00 a.m.** A Joint Status Report must be submitted by no later than fourteen days prior to the hearing. The Joint Status Report should inform the Court about the status of the State Court Action. If necessary, the Court will reschedule any deadlines set forth in the December 16, 2019 scheduling order [Adv. No. 16].

**III. Conclusion**

Based upon the foregoing, the Movant may continue to prosecute the State Court Action against the Debtors without violating the discharge injunction. Movant may not enforce any state court judgment against the Debtors unless and until she obtains from this Court a judgment that the state court judgment is excepted from discharge. All other requested relief not discussed above is denied.

The Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please**

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**first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Because both debtors have the same surname, the Court refers to them by first name to avoid confusion. No disrespect is intended.

**Note 2:** The Court incorporates herein by reference its summary of the Dischargeability Action, as set forth in the Court's Ruling. Both the Dischargeability Action and the State Court Action are predicated on the same nucleus of operative facts.

**Note 3:** Movant does not set forth a detailed argument in support of her contention.

**Note 4:** Any terms not defined herein have the meaning set forth in the Court's Ruling.

**Note 5:** Under Federal Rule of Bankruptcy Procedure 7001(9), determinations regarding the scope of the discharge injunction "require a declaratory judgment obtained in an adversary proceeding." *In re Munoz*, 287 B.R. at 551. The instant Motion is a contested matter, not an adversary proceeding. However, the record is sufficiently developed to allow the Court to make findings regarding the scope of the discharge injunction. Requiring Movant to seek a declaratory judgment is not anticipated to yield further information helpful to the Court, but would further delay the State Court Action. That, in turn, would delay this Court's resolution of the Dischargeability Action. Determining the scope of the discharge injunction in connection with this contested matter does not prejudice the substantial rights of the parties and is not inconsistent with substantial justice. *See* Civil Rule 61 ("At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights").

**Note 6:** The term *res judicata* has been broadly applied in reference to the preclusive effect of previous litigation and consists of two doctrines: (a) claim preclusion, or "true" *res judicata*, and (b) issue preclusion, which is also known as collateral estoppel. *See Kaspar Wire Works v. Leco Eng. & Mach., Inc.*, 575 F.2d 530, 535 (5th Cir. 1978) (internal citations omitted). While the objective of claim preclusion is to "avoid *multiple* suits on identical entitlements or obligations between the same

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parties," issue preclusion ... bars 'successive litigation of an issue of fact or law actually litigated and resolved in a valid court determination essential to the prior judgment,' even if the issue recurs in the context of a different claim." *Id.*; *Taylor v. Sturgell*, 553 U.S. 880, 892-93 (2008) (internal citations omitted).

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

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto

**Trustee(s):**

Timothy Yoo (TR)

Pro Se



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**2:19-20161 Ray Charles Patterson**

**Chapter 11**

**#27.00** Hearing  
RE: [28] Motion for Setting Property Value Notice of Motion and Motion for Order Determining Value of Collateral [11 U.S.C. §506(a), FRBP 3012]: 7520 Shore Cliff Drive, Los Angeles, CA 90045, with Proof of Service

Docket 28

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Ray Charles Patterson

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia

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2:19-17235 Ruben Lino Zuniga

Chapter 7

#100.00 APPLICANT: Trustee: EDWARD M WOLKOWITZ

Hearing re [31] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

No objection has been filed in response to the Trustee's Final Report. The Court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$4,145.81

Total Expenses: \$2.00

Flat Fee Payment to Tax Preparer: \$1,000.00 [Note 1]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The Court entered an order authorizing the Trustee to employ Donald T. Fife as a tax preparer, and to pay Fife \$1,000 for tax preparation services, on October 21, 2019. Doc. No. 25.

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

Ruben Lino Zuniga

Represented By

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**CONT... Ruben Lino Zuniga**

Raymond J Bulaon

**Chapter 7**

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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**2:19-17235 Ruben Lino Zuniga**

**Chapter 7**

**#101.00 APPLICANT:Accountant for Trustee: DONALD T FIFE**

Hearing re [31] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/4/2020

See Cal. No. 101, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Ruben Lino Zuniga

Represented By  
Raymond J Bulaon

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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**2:19-25232 Rigoberto Rodriguez Solano**

**Chapter 7**

**#1.00** HearingRE: [7] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA ACCORD, VIN: 1HGC V1F9 6JA0 90004 .

Docket 7

**Tentative Ruling:**

2/7/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Rigoberto Rodriguez Solano

Represented By  
Michael E Clark

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

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**2:20-10034 Asia Reign Washington**

**Chapter 7**

**#2.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA CIVIC, VIN: 2HGF C2F5 8HH5 60311 .

Docket 11

**Tentative Ruling:**

2/7/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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**CONT... Asia Reign Washington**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Asia Reign Washington

Pro Se

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, February 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20161 Ray Charles Patterson**

**Chapter 11**

**#3.00** Hearing  
RE: [29] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7520 Shore Cliff Drive, Los Angeles, CA 90045. . (Castle, Caren)

FR. 1-27-20

Docket 29

**Tentative Ruling:**

2/7/2020

For the reasons set forth below, the Motion is DENIED without prejudice.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Real Property) [Doc. No. 31] (the "Motion")
2. Debtor's Response to Motion Regarding the Automatic Stay and Declaration(s) in Support [Doc. No. 43] (the "Opposition")
3. Stipulation Re Continuance of Hearing on Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 [Doc. No. 34]
4. As of the date of this tentative ruling, Movant has not filed a reply

**I. Facts and Summary of Pleadings**

Debtor-in-possession Ray Charles Patterson (the "Debtor") filed this voluntary chapter 11 case on August 28, 2019 (the "Petition Date"). The Bank of New York Mellon, as trustee for the Certificateholders of the Cwalt, Inc., ("Movant") seeks relief from stay pursuant §§ 362(d)(1) and (d)(2) with respect to real property located at 7520 Shore Cliff Drive, Los Angeles, CA 90045 (the "Property"). Movant's claim is secured by a first-priority lien against the Property in the amount of \$2,014,497.81 as of November 21, 2019. Motion at 8.

The relief-stay motion (the "Motion") [Doc. No. 29] alleges that Movant's interest in the Property is not adequately protected by an ample equity cushion, that Debtor

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**CONT... Ray Charles Patterson**

**Chapter 11**

has failed to make approximately 13 monthly payments, and that Debtor has no equity in the Property, which is also not necessary for chapter 11 reorganization. In support of the Motion, Movant relies on the Property's fair market value of \$2,100,000, as Debtor stated in his commencement documents. *See* Motion at 8; Ex. 5 [Schedule A/B: Property]. Based on these figures, the Movant claims that its interest in Property is narrowly protected by an equity cushion of \$85,502.19, or 4.07% of the Property's alleged fair market value. After factoring in costs of sale and all junior liens, Movant asserts that the Debtor has no equity in the Property. Aside from indicating that the Property was not necessary to Debtor's reorganization by checking the box in paragraph 4(b), the Movant did not supply any specific facts supporting its contention.

On January 27, 2020, the Debtor timely filed an opposition to the Motion [Doc. No. 47] (the "Opposition"). In support of the Opposition, the Debtor attached his declaration stating that, following an agreement with the Property's current tenant, the Property will begin generating monthly rental proceeds of \$8,500 (the "Rental Proceeds") starting on March 1, 2020. Declaration of Ray Charles Patterson (the "Patterson Decl."), ¶ 9. Debtor also offers to make monthly adequate protection payments totaling the full amount of the Rental Proceeds through the plan confirmation date, with a \$2,582 amount apportioned for monthly escrow payments. *Id.*, ¶ 10. Because these proposed payments would adequately protect Movant's interest, the Debtor argues that there is no cause to lift the automatic stay under § 362(d)(1). With respect to § 362(d)(2), the Debtor concedes that there is no equity in the Property, and he references a contested appraisal attached to an outstanding valuation motion [Doc. No. 28] (the "Valuation Motion"), which lists the Property's fair market value at \$1,100,000. Notwithstanding the lack of equity in the Property, the Debtor cites the Supreme Court's decision in *United Sav. Ass'n v. Timbers of Inwood Forest Assoc. Ltd.*, 484 U.S. 365 (1988), to support his contention that secured creditors are not entitled to stay-relief where the debtors can show that an asset is necessary for an effective reorganization. Accordingly, the Debtor disputes Movant's claim that the Property is not necessary for an effective reorganization. *See* Opposition at 5-6.

The Motion was originally set to be heard on January 27, 2020, but the parties stipulated to continue the hearing to February 10, 2020. On January 15, 2020, the Court entered an order approving the parties' stipulation, and thereon permitted Movant to file a reply to the Opposition, if any, by no later than February 3, 2020 [Doc. No. 36]. As of the date of the preparation of this tentative ruling, Movant has

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**CONT...**      **Ray Charles Patterson**  
not filed a reply.

**Chapter 11**

## **II. Findings of Fact and Conclusions of Law**

### *11 U.S.C. § 362(d)(1)*

Under 11 U.S.C. § 362(d)(1), the Court shall grant relief if the movant's interest in the property is not protected by an adequate equity cushion.

In this case, Movant relies on Debtor's own valuation of the Property as set forth in his commencement documents. Motion, Ex. 5. On the other hand, Debtor submitted a declaration stating that the Property's fair market value is now \$1,100,000 based on an appraisal report, but that appraisal was not attached to the Opposition. The Debtor has also offered to begin making monthly adequate protection payments to Movant in the amount of \$8,500 through the date of plan confirmation. Movant did not file a reply brief, so the Court does not know whether Movant finds the Debtor's offer acceptable.

On balance, the Court is persuaded to deny relief from stay under § 362(d)(1) without prejudice at this time. To ensure that Movant's interest is adequately protected, the Debtor is directed to make monthly adequate protection payments to Movant in the amount of \$8,500.00, until this Court enters an order (a) approving Debtor's chapter 11 plan or (b) otherwise instructing the parties. Beginning in March 2020, if the Debtor fails to make any adequate protection payments by the close of business on the 5th day of each month, on declaration so stating, Movant may lodge an order granting relief from stay under § 362(d)(1), and the Court will enter such order without further notice or hearing.

### *11 U.S.C. § 362(d)(2)*

Under 11 U.S.C. § 362(d)(2), the court shall grant relief from the stay if "(A) the debtor does not have any equity in such property; and (B) such property is not necessary for an effective reorganization."

The Court acknowledges that Debtor concedes to not possessing any equity in the Property, but reserves any findings with respect to the Property's value until the

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**CONT... Ray Charles Patterson**

**Chapter 11**

Valuation Motion is heard. However, on this record the Court is not persuaded to find that the Property is not necessary for an effective reorganization. While Movant fails to address this issue, Debtor, in his declaration, testifies that Rental Proceeds generated from the Property will be offered as adequate protection payments to the Movant. Patterson Decl., ¶¶ 10-11. Additionally, Debtor stresses that if stay-relief is granted "Loss of the [Property's] income will be disastrous to Debtor's financial rehabilitation." *See* Opposition at 6.

Accordingly, Movant's request for relief under § 362(d)(2) is DENIED without prejudice.

### **III. Conclusion**

For the reasons set forth above, the Motion is DENIED. The Debtor is directed to make monthly adequate protection payments in the amount of \$8,500 until such time as the Court orders otherwise. If the Debtor fails to make any adequate protection payments by the close of business on the 5th day of each month, on declaration so stating, Movant may lodge an order granting relief from stay under § 362(d)(1), and the Court will enter such order without further notice or hearing.

The Movant shall lodge a conforming proposed order, incorporating this tentative ruling by reference, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Ray Charles Patterson

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

**United States Bankruptcy Court  
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10:00 AM

**2:19-18810 Geraier B. Torossian**

**Chapter 7**

**#4.00** HearingRE: [33] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 365 Burchett Street, #303, Glendale, CA 91203 . (Castle, Caren)

Docket 33

**Tentative Ruling:**

2/7/2020

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property, or to enter into a potential forbearance or loan modification agreement in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Movant has established a *prima facie* case that cause exists, and Debtor has not responded with evidence establishing that the property is not declining in value or that Movant is adequately protected. La Jolla Mortg. Fund v. Rancho El Cajon Assocs., 18 B.R. 283, 288 (Bankr. C.D. Cal. 1982) (finding that the debtor has the burden of proof in establishing that a creditor is adequately protected).

The subject property has a value of \$305,000 (*see* Schedule A/B: Property [Doc. No. 1]) and is encumbered by a perfected senior deed of trust in favor of the Movant in the amount of \$196,549.48 (*See* Motion at 8). Considering Movant's lien, all senior liens against the property, and the estimated costs of sale, there is an equity cushion of \$84,050.52. Movant is protected by a 27.58% equity cushion in the property. Although there is some equity left in the property to protect Movant's claim, the Court

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**CONT... Geraier B. Torossian**

**Chapter 7**

notes that the property is also subject to two junior liens, collectively totaling at least \$86,850.95. Moreover, there is no evidence that the trustee can administer the property for the benefit of unsecured creditors. The Ninth Circuit has established that an equity cushion of 20% constitutes adequate protection for a secured creditor. Pistole v. Mellor (In re Mellor), 734 F.2d 1396, 1401 (9th Cir. 1984); see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.), 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). However, because Movant's equity cushion in this case is expected to be depleted on account of escalating arrears and the costs of sale, the Court concludes that Movant's interest in the collateral is not adequately protected.

Based on the totality of the circumstances, this is cause to terminate the stay under 11 U.S.C. § 362(d)(1). See La Jolla Mortg. Fund, 18 B.R. at 288 ("a particular value cushion which may be adequate protection for a third or fourth mortgagee in one case, may be insufficient to constitute adequate protection for a first mortgagee in another case.") (internal citations omitted). Moreover, the Court deems the Debtor's failure to file a response or opposition as consent to granting the Motion pursuant to Local Bankruptcy Rule 9013-1(h).

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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**CONT... Geraier B. Torossian**

**Chapter 7**

**Party Information**

**Debtor(s):**

Geraier B. Torossian

Represented By  
David B Golubchik

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Monday, February 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20444 Cafa Homes Inc.**

**Chapter 7**

**#5.00** HearingRE: [81] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 323 East 93rd Street Los Angeles, California 90003 . (Mantovani, Bonni)

Docket 81

**Tentative Ruling:**

2/7/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Since a chapter 7 case does not contemplate reorganization, the sole issue before the Court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the Debtor has equity in the property. See, e.g., Martens v. Countrywide Home Loans (In re Martens), 331 B.R. 395, 398 (B.A.P. 8th Cir. 2005); Ramco Indus. v. Preuss (In re Preuss), 15 B.R. 896, 897 (B.A.P. 9th Cir. 1981).

The subject property has an approximated value of \$225,000 (*see* Motion, Ex.3) and is encumbered by a perfected deed of trust or mortgage in favor of the Movant in the amount of \$43,635.10 (Motion at 8). The liens and unpaid property taxes against the property and the expected costs of sale total approximately \$235,749.33. *See* Motion at 8; Ex. 4. The Court finds there is no equity and there is no evidence that the



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**CONT... Cafa Homes Inc.**

**Chapter 7**

trustee can administer the subject real property for the benefit of creditors. In fact, the Court notes that the trustee has submitted a notice to abandon the estate's interest in the property [Doc. No. 83].

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Cafa Homes Inc.

Represented By  
John M Boyko

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, February 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01397 Mastan, Chapter 7 Trustee v. Kim et al

- #1.00** Status Hearing RE: [1] Adversary case 2:19-ap-01397. Complaint by Peter J. Mastan, Chapter 7 Trustee against Ji Young Kim, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the "Trustee") commenced this avoidance action against Ji Young Kim (the "Defendant") on September 14, 2019. On November 14, 2019, the Clerk of the Court issued an alias summons.

The Trustee states that he has been unable to locate the contact information or current address for the Defendant. The Trustee states that the Defendant is believed to be a former sales manager of the Debtor. The Trustee requests an extension of the 90-day deadline to serve the Summons and Complaint set forth in Civil Rule 4(m).

Civil Rule 4(m) provides that if the plaintiff shows good cause for failing to meet the service deadline specified therein, "the court must extend the time for service for an appropriate period." The Court finds that the Trustee has shown cause for an extension of the deadline to serve the Defendant.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The Trustee shall obtain an alias summons, and shall serve the Summons and Complaint upon the Defendant, by no later than **April 10, 2020**.
- 2) A continued Status Conference shall be held on **May 12, 2020, at 10:00 a.m.** The parties shall submit a Joint Status Report by no later than fourteen days prior to the hearing.

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**CONT... Keystone Textile, Inc.**

**Chapter 7**

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Ji Young Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
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**Tuesday, February 11, 2020**

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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01399 Mastan, Chapter 7 Trustee v. Hwang

**#2.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01399. Complaint by Peter J. Mastan, Chapter 7 Trustee against Hyun Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 12-4-19

Docket 1

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the “Trustee”) commenced this fraudulent transfer action against Hyun Hwang (the “Defendant”) on September 14, 2019. On December 11, 2019, the Court denied the Defendant’s Motion to Dismiss, and ordered the Defendant to file an Answer by no later than January 21, 2020. Doc. No. 25. Defendant timely filed an Answer. The Trustee seeks leave to file a First Amended Complaint to allege an additional \$80,000 transfer from the Debtor to the Defendant.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In the event that Defendant declines to stipulate to the filing of a First Amended Complaint, the Trustee shall file a motion for leave to amend by no later than **March 10, 2020**.
- 2) A continued Status Conference is set for **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.

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**CONT... Keystone Textile, Inc.**

**Chapter 7**

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Hyun Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01400 Mastan, Chapter 7 Trustee v. Hwang et al

**#3.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01400. Complaint by Peter J. Mastan, Chapter 7 Trustee against Mirea Rea Hwang, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 11-26-19; 12-4-19

Docket 1

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the "Trustee") commenced this fraudulent transfer action against Mirea Rea Hwang (the "Defendant") on September 14, 2019. On December 4, 2019, the Court conducted a hearing on the Defendant's Motion to Dismiss. The Court found that adjudication of the Complaint would violate the automatic stay arising in the bankruptcy petition filed by Defendant's spouse, Kenny Hwang ("K. Hwang"). The Court ordered that the action would be stayed, unless and until the Trustee obtained relief from the automatic stay in K. Hwang's bankruptcy case.

The Trustee has not moved for stay relief in K. Hwang's bankruptcy case. A continued meeting of creditors in K. Hwang's bankruptcy case is set for February 12, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **May 12, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to

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**CONT...**      **Keystone Textile, Inc.**  
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**Chapter 7**

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Mirea Rea Hwang

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01401 Mastan, Chapter 7 Trustee v. Four Season Travel, Inc. et al

**#4.00** Status Hearing RE: [1] Adversary case 2:19-ap-01401. Complaint by Peter J. Mastan, Chapter 7 Trustee against Four Season Travel, Inc., Heidi Kim, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**Tentative Ruling:**

2/10/2020

Having reviewed the Joint Status Report submitted by the parties, the Court  
**HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **3/12/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **6/30/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **7/30/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **8/18/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-



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calendar.)

- e) The last day for dispositive motions to be heard is **8/25/2020**. (If the motion cutoff date is not available for self-calendar, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendar.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **8/29/2020**. (If the non-expert discovery cutoff date is not available for self-calendar, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendar.)
- g) A Pretrial Conference is set for **9/15/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed

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supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.

iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.

i) Trial is set for the week of **9/28/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

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**Defendant(s):**

Four Season Travel, Inc.	Pro Se
Heidi Kim	Pro Se
Does 1 - 10, inclusive	Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee	Represented By Meghann A Triplett
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**Trustee(s):**

Peter J Mastan (TR)	Represented By Meghann A Triplett Noreen A Madoyan
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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01402 Mastan, Chapter 7 Trustee v. Hwang et al

**#5.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01402. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Trigen Int'l, Inc., Beyond Textile, Inc., Does 1 - 10, inclusive. (Charge To Estate). COMPLAINT FOR: (1) AVOIDANCE OF ACTUAL FRAUDULENT TRANSFERS [11 U.S.C. 544(b), 548(a)(1)(A), And 550(a), And Cal. Civ. Code §§ 3439.04(a) And 3439.07]; (2) AVOIDANCE OF CONSTRUCTIVE FRAUDULENT TRANSFERS [11 U.S.C. §§ 544(b), 548(a)(1) (B), And 550(a), And Cal. Civ. Code §§ 3439.04(b) Or 3439.05 And Cal. Civ. Code § 3439.07] (3) CONSPIRACY TO DEFRAUD [11 U.S.C. § 105(a)] (4) FOR RECOVERY OF ILLEGAL DIVIDENDS [Cal. Corp. Code §§ 500, 501 And 506] (5) FOR BREACH OF FIDUCIARY DUTY; AND (6) RECOVERY OF AVOIDED TRANSFER [11 U.S.C. § 550(a)] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

fr. 11-19-19

Docket 1

**Tentative Ruling:**

2/10/2020

Prosecution of this avoidance action against Defendant Kenny Hwang was stayed by Hwang's filing of a Chapter 7 voluntary petition on September 19, 2019 (Case No. 2:19-bk-21045-BR). Default was entered against Defendants Trigen Int'l, Inc. ("Trigen") on October 29, 2019, and against Beyond Textile, Inc. ("Beyond Textile") on November 4, 2019.

On November 25, 2019, the Court ordered the Chapter 7 Trustee (the "Trustee") to file Motions for Default Judgment (the "Motions") against Trigen and Beyond Textile by no later than **January 10, 2020**. As of the date of issuance of this tentative ruling, the Motions have not been filed.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

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- 1) The Trustee shall file the Motions against Trigen and Beyond Textile by no later than **March 10, 2020**. The Motions shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o). If the Trustee does not comply with this deadline, the Court will issue an order requiring the Trustee to show cause why this action should not be dismissed as to Trigen and Beyond Textile for failure to prosecute.
- 2) A continued Status Conference is set for **April 14, 2020, at 10:00 a.m.** A Joint Status Report, which shall discuss the status Hwang's Chapter 7 case, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Trigen Int'l, Inc.

Pro Se

Beyond Textile, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

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**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01369 Mastan, Chapter 7 Trustee v. S & H Design, Inc.

**#6.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01369. Complaint by Peter J. Mastan, Chapter 7 Trustee against S & H Design, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

fr: 11-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

11/18/2019

Default was entered against the only Defendant in this matter on October 29, 2019. Having reviewed Plaintiff's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") by no later than **January 10, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are **VACATED**.
- 3) A continued Status Conference shall be held on **February 11, 2020, at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than seven days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear,**

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**CONT... Tbetty, Inc.**

**Chapter 7**

**please first contact opposing counsel to inform them of your intention to do so.**  
Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

S & H Design, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01371 Mastan, Chapter 7 Trustee v. Ropiablu, Inc.

**#7.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01371. Complaint by Peter J. Mastan, Chapter 7 Trustee against Ropiablu, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

fr. 11-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-5-20**

**Tentative Ruling:**

2/10/2020

Hearing VACATED. Default Judgment was entered on February 5, 2020.  
Doc. No. 25.

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

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Ropiablu, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
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10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01374 Mastan, Chapter 7 Trustee v. Nobel Textile, Inc.

**#8.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01374. Complaint by Peter J. Mastan, Chapter 7 Trustee against Nobel Textile, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-5-20**

**Tentative Ruling:**

2/10/2020

Hearing VACATED. Default Judgment was entered on February 5, 2020.  
Doc. No. 25.

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

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Nobel Textile, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01375 Mastan, Chapter 7 Trustee v. JM Story, Inc.

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01375. Complaint by Peter J. Mastan, Chapter 7 Trustee against JM Story, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19

Docket 1

**Tentative Ruling:**

2/10/2020

Default was entered against the only Defendant in this matter on October 29, 2019. On November 25, 2019, the Court ordered the Chapter 7 Trustee (the "Trustee") to file a Motion for Default Judgment (the "Motion") against the Defendant by no later than January 10, 2020. As of the date of issuance of this tentative ruling, the Motion has not been filed.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The Trustee shall file the Motion by no later than **March 10, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o). If the Trustee does not comply with this deadline, the Court will issue an order requiring the Trustee to show cause why this action should not be dismissed for failure to prosecute.
- 2) A continued Status Conference is set for **April 14, 2020, at 10:00 a.m.** A Joint Status Report, which shall discuss the status Hwang's Chapter 7 case, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an appropriate order.

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JM Story, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01376 Mastan, Chapter 7 Trustee v. DCK America Enterprise, Inc.

**#10.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01376. Complaint by Peter J. Mastan, Chapter 7 Trustee against DCK America Enterprise, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

fr: 11-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-5-20**

**Tentative Ruling:**

2/10/2020

Hearing VACATED. Default Judgment was entered on February 5, 2020.  
Doc. No. 25.

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

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

DCK America Enterprise, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01404 Mastan, Chapter 7 Trustee v. Hwang et al

**#11.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01404. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Mirea Rea Hwang, Hyun Hwang, Tri Blossom, LLC, K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery from Subsequent Transferee [11 U.S.C. §§ 544, 548]; (5) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; (6) Conspiracy to Defraud [11 U.S.C. § 105(a)]; (7) For Recovery of Illegal Dividends [Cal. Corp. Code §§ 500, 501 and 506]; and (8) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Triplett, Meghann)

FR. 11-19-19; 12-4-19

Docket 1

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the "Trustee") filed this fraudulent transfer action against Kenny Hwang ("K. Hwang"), Mirea Hwang ("M. Hwang"), Hyun Hwang ("H. Hwang"), Tri Blossom, LLC, and K2 America, Inc. (collectively, the "Defendants") on September 15, 2019. On December 4, 2019, the Court conducted a hearing on a Motion to Dismiss brought by Defendants K. Hwang, M. Hwang, H. Hwang, and Tri Blossom LLC. The Court found that adjudication of the Complaint would violate the automatic stay arising in the bankruptcy petition filed K. Hwang. The Court ordered that the action would be stayed, unless and until the Trustee obtained relief from the automatic stay in K. Hwang's bankruptcy case.

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**CONT... Tbetty, Inc.**

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The Trustee has not moved for stay relief in K. Hwang's bankruptcy case. A continued meeting of creditors in K. Hwang's bankruptcy case is set for February 12, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **May 12, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Hyun Hwang

Pro Se

Tri Blossom, LLC

Pro Se

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

Mi Rae Hwang

Pro Se

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**CONT... Tbetty, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



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10:00 AM

**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

Adv#: 2:19-01290 Goodrich v. Liu

**#12.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01290. Complaint by David M. Goodrich against Nancy Liu. (Charge To Estate). Complaint for Declaratory Relief Nature of Suit: (91 (Declaratory judgment)) (Gaschen, Beth)

fr: 12-10-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 12-16-19**

**Tentative Ruling:**

2/10/2020

Hearing VACATED. Default Judgment was entered on December 16, 2019.  
Doc. No. 18.

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

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Defendant(s):**

Nancy Liu

Pro Se

**Plaintiff(s):**

David M. Goodrich

Represented By  
Beth Gaschen

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

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10:00 AM

**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495      Gonzalez v. Lui et al

**#13.00**      Status Hearing

RE: [1] Adversary case 2:19-ap-01495. Complaint by Rosendo Gonzalez against Charlton Lui, Catalyst Trust, CP WW Ventures Inc, CTC Investment Holdings LLC, Primo Hospitality Group, Inc., Hovahannes Tshavrushyan. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Weil, Diane)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

8590 Sunset A-FS, LLC dba Cafe

Represented By  
Michael Jay Berger

**Defendant(s):**

Charlton Lui

Pro Se

Catalyst Trust

Pro Se

CP WW Ventures Inc

Pro Se

CTC Investment Holdings LLC

Pro Se

Primo Hospitality Group, Inc.

Pro Se

Hovahannes Tshavrushyan

Pro Se

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Diane C Weil

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

**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:19-15098 Phachira Ketkaew**

**Chapter 7**

Adv#: 2:19-01252 Jittanoon et al v. Ketkaew

**#14.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01252. Complaint by Peera Jittanoon, Preda Jittanoon against Phachira Ketkaew. 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)) (Landsberg, Ian)

fr. 10-15-19

Docket 1

**Tentative Ruling:**

2/10/2020

The Court conducted a Status Conference in this matter on October 15, 2019, and set litigation deadlines. The Court did not assign the matter to formal mediation at the October 2019 Status Conference, based upon the parties' request that the matter not be assigned to mediation until after discovery had been completed. The Court set this continued Status Conference to determine whether the matter should be assigned to mediation. Plaintiffs state that they are open to mediation in late February, after they depose the Defendant. The Defendant likewise requests that the matter be assigned to mediation.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.
- 2) The parties may schedule mediation in late February, after Defendant's deposition has been completed.
- 3) The litigation deadlines previously set by way of the Scheduling Order issued

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**Phachira Ketkaew**

**Chapter 7**

on October 24, 2019 [Doc. No. 13] shall continue to apply.

- 4) Unless otherwise ordered, no further Status Conference will be conducted.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Phachira Ketkaew

Represented By  
Jarintorn Tanatchasai

**Defendant(s):**

Phachira Ketkaew

Pro Se

**Plaintiff(s):**

Peera Jittanoon

Represented By  
Ian Landsberg

Preda Jittanoon

Represented By  
Ian Landsberg

**Trustee(s):**

David M Goodrich (TR)

Pro Se

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**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#15.00** Status Hearing  
RE: [12] Amended Complaint by Michael N Berke on behalf of Miguel Hernandez Cruz against Shamim Ahemmed. (Berke, Michael)

Docket 12

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Represented By  
Lawrence R Fieselman

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

Adv#: 2:16-01374 Official Unsecured Creditors Committee for Liberty v. Ho et al

**#16.00** Status conference re status of appeal

fr. 7-9-19; 10-15-19; 12-10-19

Docket 129

**Tentative Ruling:**

2/10/2020

Hearing **CONTINUED** to **March 11, 2020, at 10:00 a.m.** By no later than **February 19, 2020**, Defendant shall submit further briefing in support of her assertion that trial of this action should be continued until the criminal proceeding against Kirk and Gao has been resolved. The briefing shall (a) address the factors set forth in *Fed. Sav. & Loan Ins. Corp. v. Molinaro*, 889 F.2d 899, 903 (9th Cir. 1989) (discussed in greater detail below) and (b) any other applicable law supporting Defendant's contention that a continuance is required by reason of the criminal proceeding. Plaintiff's opposition to a continuance shall be submitted by **February 26, 2020**. Defendant's reply shall be submitted by **March 4, 2020**.

Trial in this adversary proceeding was initially set for May 29–30, 2018. On May 28, 2018, Defendant Tsai Luan Ho a/k/a Shelby Ho ("Ho") (the only remaining defendant) filed a voluntary Chapter 7 petition in the United States Bankruptcy Court for the Northern District of California (the "Northern District Bankruptcy Court"). The Court took the trial off calendar. Based upon Plaintiff's representation that it intended to pursue a non-dischargeability action against Ho in the Northern District Bankruptcy Court, the Court subsequently dismissed this action without prejudice.

On July 20, 2018, Plaintiff filed a non-dischargeability action against Ho in the Northern District Bankruptcy Court (the "523 Action"). On August 23, 2018, the Chapter 7 Trustee in Ho's bankruptcy case filed a § 727 complaint to deny Ho's discharge (the "727 Action"). On April 9, 2019, the Northern District Bankruptcy Court entered judgment denying Ho's discharge, pursuant to § 727(a)(3) (the "Judgment Denying Discharge"). On April 16, 2019, Ho appealed the Judgment Denying Discharge to the United States District Court for the Northern District of

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**CONT... Liberty Asset Management Corporation**

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California (the "District Court"). On June 7, 2019, the Northern District Bankruptcy Court denied Ho's motion for a stay pending appeal of the Judgment Denying Discharge. Ho's appeal of the Judgment Denying Discharge remains pending before the District Court. Proceedings in the 523 Action have been stayed pending resolution of the appeal of the Judgment Denying Discharge. On April 26, 2019, the Northern District Bankruptcy Court issued a minute order providing that the 523 Action "may be restored to the calendar after the District Court acts on the pending appeal" of the Judgment Denying Discharge.

On July 9, 2019, the Court conducted a hearing on Plaintiff's motion to reopen this adversary proceeding (the "Motion to Reopen"). Plaintiff sought an order reopening this proceeding and setting the matter for an immediate status conference in trial.

The Court ruled that it would not set this matter for trial until the District Court had decided Ho's appeal of the Judgment Denying Discharge. The Court reasoned:

In the event that the District Court overturns the Judgment Denying Discharge, Plaintiff will be required to pursue the 523 Action to obtain a recovery against Ho. The 523 Action is based upon the same nucleus of operative facts as this action. The potential for duplicative litigation weighs against proceeding to trial at this time. In addition to wasting judicial resources, the additional costs resulting from a duplicative trial would decrease the recoveries available for distribution to creditors by the Plan Administrator.

Ruling on Motion to Reopen [Doc. No. 135] at 4.

The Court set this Status Conference to monitor the status of Ho's appeal of the Judgment Denying Discharge. On December 11, 2019, the District Court affirmed the Judgment Denying Discharge. Ho has not appealed the affirmance to the Ninth Circuit, and the deadline to do so has expired.

Plaintiff requests that the action proceed to trial immediately. Ho opposes immediate trial for two reasons. First, Ho argues that the facts set forth in the *Final Joint Pretrial Stipulation* (the "Pretrial Stipulation") [Doc. No. 89] must be revisited in view of the District Court's reversal of the *Memorandum of Decision Finding That Plaintiff Is Entitled to Judgment Against Defendants in the Amount of \$74,140,695.29* entered in the Adv. No. 16-ap-01337 (the "Memorandum"). Ho further argues that additional discovery is necessary.

Second, Ho states that she intends to call Benjamin Kirk and Lucy Gao as



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witnesses on her behalf. Ho argues that the trial should be postponed until after a criminal action against Kirk and Gao has been resolved. Ho states that if the trial is not postponed, she will not be able to adequately defend herself because Kirk and Gao will invoke their Fifth Amendment rights and refuse to testify.

With respect to Ho's first argument, the District Court's reversal of the Memorandum does not require a reopening of discovery or modification of the Pretrial Stipulation. The Pretrial Stipulation is 139 paragraphs long. Only one paragraph refers to the Memorandum, and all that paragraph says is that Exhibit 3 is a copy of the Memorandum. Pretrial Stipulation at ¶ 3. **[Note 1]**

The Court notes that on March 27, 2018, it denied Ho's *Motion to Reopen Discovery and Vacate Trial Date* [Adv. Doc. No. 78] (the "Discovery Motion"). Adv. Doc. No. 84. In the Discovery Motion, Ms. Ho sought an extension of the discovery cutoff date established in the Court's *Scheduling Order*. The Court found that Ms. Ho was not entitled to modification of the deadlines set forth in the *Scheduling Order* because she had not diligently pursued discovery:

Ms. Ho maintains that discovery must be reopened because she has recently discovered evidence that her signatures on documents associated with the Mega Bank account were forged. However, communications between Ms. Ho's prior counsel and the Committee's counsel establish that Ms. Ho was aware of the alleged forgeries *prior* to the June 30, 2017 discovery cutoff. On June 13, 2017, Ms. Ho's prior counsel sent the Committee's counsel an e-mail which states in relevant part:

While you are waiting for my documents I am voluntarily sending you the documents we received from Mega Bank as it relates to the 88 San Fernando LLC account.

I have confirmed that each signature that which appears to be my client's has been forged.

You will see that it was set up by Vanessa and the money was deposited into this account and then went out over forged signatures.

Maybe you can find some money from the true actors.

*See Opposition at Ex. C [Doc. No. 80].*

Therefore, Ms. Ho had the opportunity to conduct whatever discovery she deemed necessary with respect to the alleged forgeries associated with the Mega Bank account. For unknown reasons, Ms. Ho, a real estate and business professional advised by sophisticated counsel, failed to undertake such

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discovery. Unfortunately, Ms. Ho's lack of diligence is not good cause for setting aside the litigation deadlines governing these proceedings.

Final Ruling Denying the Discovery Motion [Doc. No. 83] at 5.

The Court explained that although Ms. Ho's lack of diligence was by itself sufficient cause to deny the Discovery Motion, an examination of the other factors which the Court could consider in connection with a request to modify a scheduling order also supported denial of the Discovery Motion:

In ruling on a motion to amend a scheduling order to reopen discovery, the following factors may be considered:

- 1) whether trial is imminent,
- 2) whether the request is opposed,
- 3) whether the non-moving party would be prejudiced,
- 4) whether the moving party was diligent in obtaining discovery within the guidelines established by the court,
- 5) the foreseeability of the need for additional discovery in light of the time allowed for discovery by the district court, and
- 6) the likelihood that the discovery will lead to relevant evidence.

*City of Pomona v. SQM N. Am. Corp.*, 866 F.3d 1060, 1066 (9th Cir. 2017).

Upon consideration of the *Pomona* factors, the Court finds that Ms. Ho has failed to establish good cause to reopen discovery and to continue the trial date. The Court places substantial weight upon factor six, the likelihood that the discovery will lead to relevant evidence. This factor is challenging to apply in practice, as it is impossible to know precisely what additional evidence further discovery will yield. Further, in applying this factor, the Court must also be mindful of Civil Rule 26(b)(1), which provides that discovery must be "proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit."

Recognizing that its determination is not an exact science, the Court finds that Ms. Ho has failed to establish that it is likely that further discovery will produce material relevant evidence. Prior to expiration of discovery cutoff

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date, Ms. Ho was represented by Dykema, a sophisticated law firm. At the time it sought leave to withdraw from representing Ms. Ho, Dykema had billed Ms. Ho \$363,068.93 for services rendered. Thus, Dykema's attorneys expended substantial work in connection with this case. Further, counsel had ample time to pursue discovery into relevant issues. The discovery cutoff date of June 30, 2017 gave Ms. Ho approximately one year to conduct discovery (the Complaint was filed on August 16, 2016).

The Court cannot rule out the possibility that Dykema may have overlooked potentially promising areas which, if pursued by Ms. Ho's new counsel, could yield potential evidence. Such an outcome, while possible, is unlikely, particularly given the posture in which the instant Motion comes before the Court. First, the Motion relies substantially upon the Mega Bank account statements as the justification for reopening discovery. But the e-mail excerpted above clearly establishes that Ms. Ho's prior counsel was fully aware of the possibility that the signatures contained on the Mega Bank statements were forgeries. Why, then, did present counsel wait until now to seek to reopen discovery? The most plausible explanation is that the instant Motion is nothing more than a belated attempt by Ms. Ho to enhance her negotiating leverage after mediation before Rebecca Callahan proved unsuccessful. That conclusion is bolstered by the fact that Ms. Ho's new counsel advised the Court on November 14, 2017, that it did "not believe at this time that discovery has to be reopened."

Factor five, foreseeability of the need for additional discovery in light of the time allowed for discovery by the court, weighs against granting the Motion. The discovery cutoff deadline allowed approximately one year for discovery to be conducted. A one-year discovery period is proportional to the needs of this case. The Complaint seeks damages against Ms. Ho "in excess of \$13 million." While this is a substantial amount, the damages sought are not so high as to warrant years of discovery.

Factor four, Ms. Ho's lack of diligence, weighs against granting the Motion, for the reasons discussed above. Factor one, the imminence of trial, and factor two, the Committee's opposition to the Motion, also weigh against reopening discovery.

Final Ruling Denying the Discovery Motion [Doc. No. 83] at 5–7.

With respect to Ho's second argument, in *Fed. Sav. & Loan Ins. Corp. v.*

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*Molinaro*, 889 F.2d 899, 902 (9th Cir. 1989), the Ninth Circuit articulated the factors the Court must consider when determining whether to stay civil proceedings pending the outcome of parallel criminal proceedings. The *Molinaro* factors are as follows:

- 1) the interest of the plaintiffs in proceeding expeditiously with this litigation or any particular aspect of it, and the potential prejudice to plaintiffs of a delay;
- 2) the burden which any particular aspect of the proceedings may impose on defendants;
- 3) the convenience of the court in the management of its cases, and the efficient use of judicial resources;
- 4) the interests of persons not parties to the civil litigation; and
- 5) the interest of the public in the pending civil and criminal litigation.

*Fed. Sav. & Loan Ins. Corp. v. Molinaro*, 889 F.2d 899, 903 (9th Cir. 1989).

Ho has not provided the Court an estimate of when the criminal proceedings against Kirk and Gao will be concluded. This information is necessary to enable the Court to evaluate whether a stay of this action, pending resolution of the criminal proceeding against Kirk and Gao, is warranted. By no later than **February 19, 2020**, Ho shall submit further briefing addressing this issue, as well as the other *Molinaro* factors and any other applicable law supporting Ho's contention that a continuance is required by virtue of the criminal proceeding. Plaintiff's opposition is due by **February 26, 2020**. Ho's reply is due by **March 4, 2020**.

**Note 1**

In a tentative ruling issued prior to the May 29 trial, the Court stated that Ho would be precluded from contesting certain facts that had been established in the Memorandum. The Court will no longer accord the Memorandum preclusive effect given its reversal.

**Party Information**

**Debtor(s):**

Liberty Asset Management

Represented By  
David B Golubchik  
Jeffrey S Kwong  
John-Patrick M Fritz  
Eve H Karasik

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Sandford L. Frey  
Raphael Cung

**Defendant(s):**

Tsai Luan Ho

Represented By  
James Andrew Hinds Jr  
Paul R Shankman  
Rachel M Sposato

Benjamin Kirk

Pro Se

**Plaintiff(s):**

Official Unsecured Creditors

Represented By  
Jeremy V Richards  
Gail S Greenwood

Bradley D. Sharp

Represented By  
Gail S Greenwood

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01001 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#17.00** Hearing set re [15] *Strategic Global Management, Inc.'s Emergency Motion to Stay Adversary Proceeding*

Docket 0

**Tentative Ruling:**

2/10/2020

**Tentative Ruling:**

For the reasons set forth below, SGM's motion to stay this adversary proceeding (the "Stay Motion") is DENIED. Subject to any additional argument that may be presented at the hearing, the Committee's emergency motion to intervene, for the limited purpose of opposing the Stay Motion, is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Strategic Global Management, Inc.'s Emergency Motion to Stay Adversary Proceeding (the "Stay Motion") [Adv. Doc. No. 19]
- 2) Debtors' Opposition to Strategic Global Management, Inc.'s Emergency Motion to Stay Adversary Proceeding [Adv. Doc. No. 24]
- 3) Official Committee of Unsecured Creditors' Opposition to Strategic Global Management, Inc.'s Emergency Motion to Stay Adversary Proceeding [Adv. Doc. No. 25]
- 4) Reply to Oppositions to "Strategic Global Management, Inc.'s ... Motion to Stay Adversary Proceeding" [Adv. Doc. No. 26]
- 5) Official Committee of Unsecured Creditors' Emergency Notice of Motion and Motion to Intervene Re: Strategic Global Management, Inc.'s Emergency Motion to Stay Adversary Proceeding (the "Intervention Motion") [Adv. Doc. No. 27]

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. *See* Doc. No. 17.

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As of the Petition Date, the Debtors operated six acute care hospitals in the state of California. On December 27, 2018, the Court authorized the Debtors to sell two of their hospitals—O'Connor Hospital and Saint Louise Regional Hospital—to Santa Clara County (the "Santa Clara Sale"). The Santa Clara Sale closed on February 28, 2019.

**A. The Asset Purchase Agreement Between the Debtors and Strategic Global Management**

On February 6, 2019, the Court conducted a hearing to establish bidding procedures for the auction of the Debtors' four remaining hospitals—St. Francis Medical Center ("St. Francis"), St. Vincent Medical Center (including St. Vincent Dialysis Center) ("St. Vincent"), Seton Medical Center ("Seton"), and Seton Medical Center Coastside ("Seton Coastside") (collectively, the "Hospitals"). That hearing required the Court to determine whether to approve an Asset Purchase Agreement (the "APA") between the Debtors and Strategic Global Management ("SGM"). The APA provided that SGM would serve as the stalking-horse bidder for the auction of the Hospitals.

At the February 6, 2019 hearing, the Court found that the termination rights granted to SGM in the APA were unduly broad. In response to the Court's concerns, the Debtors renegotiated the APA to limit SGM's termination rights. On February 19, 2019, the Court entered an order establishing bidding procedures for the auction of the Hospitals and approving the renegotiated APA (the "Bidding Procedures Order") [Bankr. Doc. No. 1572].

The renegotiated provision of the APA—set forth in Section 8.6—pertained to SGM's ability to terminate the transaction in the event that the California Attorney General (the "Attorney General") sought to impose conditions on the sale that were not substantially consistent with those conditions that SGM had agreed to accept (the "Purchaser Approved Conditions"). In the event that the Attorney General sought to impose conditions materially different from the Purchaser Approved Conditions (the "Additional Conditions"), the APA provided the Debtors an opportunity to seek an order from the Court that the Hospitals could be sold free and clear of the Additional Conditions under § 363(f) of the Bankruptcy Code (an order granting such relief, the "Supplemental Sale Order").

Notwithstanding thorough marketing efforts, the Debtors did not receive any qualified bids for all of the Hospitals. The Debtors received one bid to purchase only St. Vincent and one bid to purchase only St. Francis. After consulting with the

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Official Committee of Unsecured Creditors (the "Committee") and the largest secured creditors, the Debtors determined not to conduct an auction. On May 2, 2019, the Court entered an order finding that SGM was the winning bidder and approving the sale of the Hospitals to SGM for \$610 million (the "SGM Sale"). *See* Bankr. Doc. No. 2306 (the "Sale Order").

**B. The Supplemental Sale Order**

Pursuant to Cal. Corp. Code § 5914, the Debtors submitted the SGM Sale to the Attorney General for review. On September 25, 2019, the Attorney General consented to the SGM Sale, subject to Additional Conditions that were materially different from the Purchaser Approved Conditions. In response, the Debtors moved for entry of a Supplemental Sale Order. On October 23, 2019, the Court issued a *Memorandum of Decision Granting the Debtors' Emergency Motion to Enforce the Sale Order* (the "Sale Enforcement Memorandum") [Bankr. Doc. No. 3446]. The Sale Enforcement Memorandum found that the Debtors were entitled to entry of a Supplemental Sale Order, on the ground that § 363 of the Bankruptcy Code authorized the Debtors to sell the Hospitals free and clear of the Additional Conditions. The Sale Enforcement Memorandum directed the Debtors to lodge a proposed form of the Supplemental Sale Order.

Between October 23 and November 8, 2019, the Debtors, the Attorney General, and SGM attempted to negotiate a consensual form of the Supplemental Sale Order. *See* Bankr. Doc. No. 3573 (Debtors' description of attempts to arrive upon a consensual form of order). The Debtors reached an agreement with the Attorney General, under which the Attorney General would not appeal the Supplemental Sale Order, but only if the Court entered the Supplemental Sale Order in the exact form negotiated by the Debtors and the Attorney General.

SGM objected to the form of order negotiated between the Debtors and the Attorney General. On November 13, 2019, the Court conducted a hearing on SGM's objections. The Court overruled SGM's objections and entered the Supplemental Sale Order in the form negotiated between the Debtors and the Attorney General. *See* Doc. Nos. 3620 (transcript of hearing addressing SGM's objections) and 3611 (form of the Supplemental Sale Order entered by the Court). On November 29, 2019, SGM appealed the Supplemental Sale Order. *See* Bankr. Doc. No. 3726 (Notice of Appeal). The appeal is currently pending before the District Court (Case No. 2:19-cv-10352-DSF).



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**C. The Section 8.6 Memorandum of Decision and Order**

At the hearing on SGM's objections to the form of the Supplemental Sale Order, SGM argued that after entry of the Supplemental Sale Order, it would have 21 business days to evaluate, in the exercise of its reasonable business judgment, whether the Supplemental Sale Order was acceptable (the "Evaluation Period"), pursuant to § 8.6 of the APA.

On November 18, 2019, the Court entered a memorandum of decision and accompanying order rejecting SGM's argument that it was entitled to the Evaluation Period. *See* Bankr. Doc. Nos. 3632 (the "Section 8.6 Memorandum") and 3633 (the "Section 8.6 Order"). The Court found that under the plain language of the APA, SGM was entitled to the Evaluation Period only if the Supplemental Sale Order was subject to a pending appeal. *See* Section 8.6 Memorandum at 3. The Court further found that based upon representations SGM had made at a February 6, 2019 hearing regarding the purpose of § 8.6 of the APA, SGM was judicially estopped from asserting that it was entitled to the Evaluation Period. *Id.* at 3–4. The Section 8.6 Order provided in relevant part: "The Debtors have complied with their obligation under the APA to obtain a final, non-appealable Supplemental Sale Order. Consequently, SGM is now obligated to promptly close the SGM Sale, provided that all other conditions to closing have been satisfied." Section 8.6 Order at ¶ 1.

On November 29, 2019, SGM appealed the Section 8.6 Order. *See* Bankr. Doc. No. 3727 (Notice of Appeal). The appeal is currently pending before the District Court, and has been consolidated with SGM's appeal of the Supplemental Sale Order.

**D. The Material Adverse Effect Memorandum of Decision and Order**

On November 27, 2019, the Court entered a memorandum of decision and accompanying order rejecting SGM's allegation that the Debtors had failed to comply with certain of the conditions and obligations imposed upon them by the APA, and that these alleged failures to perform had resulted in a Material Adverse Effect which relieved SGM of its obligation to close the SGM Sale. *See* Bankr. Doc. Nos. 3723 (the "Material Adverse Effect Memorandum") and 3724 (the "Material Adverse Effect Order"). The Court stated: "Article 1.3 [of the APA] obligates SGM to close the sale 'promptly but no later than ten (10) business days following the satisfaction' of all conditions precedent. As all conditions precedent were satisfied on November 19, 2019, SGM is obligated to close the sale by no later than December 5, 2019." Material Adverse Effect Memorandum at 7. The Material Adverse Effect Order provided in relevant part: "Pursuant to § 1.3 of the APA, SGM is obligated to close the SGM Sale

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by no later than December 5, 2019." Material Adverse Effect Order at ¶ 1.

On December 3, 2019, SGM appealed the Material Adverse Effect Order. *See* Bankr. Doc. No. 3746 (Notice of Appeal). The appeal is currently pending before the District Court, and has been consolidated with SGM's appeals of the Section 8.6 Order and Supplemental Sale Order.

**E. The Memorandum of Decision and Order Denying the Debtors' Application for Issuance of an Order Requiring SGM to Show Cause Why it Failed to Close the SGM Sale**

SGM did not close the SGM Sale by December 5, 2019. On December 6, 2019, the Debtors moved for issuance of an order requiring SGM to show cause why it had failed to close the sale. *See* Bankr. Doc. No. 3773. On December 9, 2019, the Court issued a memorandum of decision and accompanying order denying the Debtors' application for an Order to Show Cause. *See* Bankr. Doc. Nos. 3783 (the "OSC Memorandum") and 3784 (the "OSC Order"). The Court held:

Requiring SGM's representatives to testify as to SGM's reasons for not closing the SGM Sale would not increase the likelihood of the sale actually closing. By failing to close, SGM risks the loss of its \$30 million good-faith deposit as well as the possibility of damages for breach of contract in an amount of up to \$60 million. Being compelled to offer testimony will not motivate SGM to close where the threat of the loss of up to \$90 million has failed to accomplish that end. In the future, the Debtors will have the opportunity to litigate the issues of whether SGM has breached the APA and whether the Debtors are entitled to retain SGM's good-faith deposit. In the meantime, the Debtors' efforts would be better spent ensuring the health and safety of the patients at the affected Hospitals.

OSC Memorandum at 2.

**F. The Debtors' Complaint**

On January 3, 2020, the Debtors filed a *Complaint for Breach of Contract, Promissory Fraud, and Tortious Breach of Contract (Breach of Implied Covenant of Good Faith and Fair Dealing)* (the "Complaint") [Adv. Doc. No. 1] against SGM, KPC Healthcare Holdings, Inc., KPC Health Plan Holdings, Inc., KPC Healthcare, Inc., KPC Global Management, LLC, and Kali P. Chaudhuri, M.D. (collectively, the

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"Defendants," and all KPC entities collectively, "KPC"). The material allegations of the Complaint may be summarized as follows:

Debtors entered into the APA with SGM based upon SGM's representations that it would have the ability to pay the \$610 million purchase price and that it would work diligently to close the sale. Complaint at ¶¶ 40–45. SGM never anticipated that the Debtors would obtain a final, non-appealable Supplemental Sale Order. *Id.* at ¶ 58. Instead, SGM believed that even if the Debtors obtained the Supplemental Sale Order, that order would remain subject to an appeal, triggering the Evaluation Period under § 8.6 of the APA and giving SGM the option to withdraw from the transaction and/or coerce the Debtors to agree to a substantially reduced purchase price. *Id.* at ¶ 76. Had the Debtors known that SGM was not serious about paying the \$610 million purchase price, they would have pursued other options for the sale and disposition of the Hospitals. *Id.* at ¶ 45.

Debtors expended tremendous time, expenses, and resources to prepare for and close the SGM Sale in reliance on the APA and Sale Order. *Id.* at ¶ 59. Among other things, Debtors (a) sent "WARN Notices" to approximately 4,900 employees, pursuant to the Worker Adjustment and Retraining Notification Act of 1988, at three different times, as KPC continued to postpone the closing date; (b) spent months facilitating an efficient close of the sale, with approximately twenty different workstreams, meeting at least weekly with employees of KPC to ensure a smooth transition of operations and continued care of patients; (c) successfully negotiated and finalized modified collective bargaining agreements with the six unions representing the Hospitals' employees; and (d) coordinated changes in insurance coverages and insurance policies to ensure seamless coverage for employees and patients. *Id.* at ¶ 60.

Despite the Debtors' good faith efforts to work towards a prompt closing of the SGM Sale, Defendants dragged their feet and frustrated Debtors' efforts. Defendants failed to ensure that financing, resources, management, and personnel were in place for Defendants to assume operations of the Hospitals in 2019. Defendants did so knowing that the Debtors were continuing to operate at a loss of approximately \$450,000 a day. *Id.* at ¶ 78. Among other things, Defendants (a) failed to timely engage with the Hospitals' primary revenue providers—health plans and physician groups—to provide assurances that their business relationships with the Hospitals would continue after the closing date; (b) failed to onboard a sufficient management team to run the Hospitals, and engaged in eleventh-hour efforts to hire away key members of the Debtors' management team; and (c) delayed decisions on the

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assumption or rejection of thousands of executory contracts, which created uncertainty for the counterparties to those contracts. *Id.* at ¶¶ 79–81.

On November 18, 2019, SGM's CEO, Peter Baranoff, telephoned Carsten Beith, at the Debtors' investment banker Cain, and stated that SGM could not obtain sufficient financing to close the SGM Sale. *Id.* at ¶ 86. Recognizing that the existence of financing is not a condition to close, SGM resorted to making unfounded and self-serving assertions that the Debtors breached the APA. *Id.* at ¶ 87. On November 22, 2019, SGM sent the Debtors letters setting forth issues that SGM asserted amounted to a Material Adverse Effect (the "November 22, 2019 Letters"). *Id.* at ¶ 88. The issues that SGM raised were not new—they were all known or discoverable during the diligence period that had expired at least nine months earlier. *Id.* And none of the issues altered SGM's obligation to close the SGM Sale by December 5, 2019, because the APA provided that the sale was "as is, where is." *Id.* Even after the Bankruptcy Court entered the Material Adverse Effect Order, which provided that SGM was required to close the SGM Sale by December 5, 2019, SGM refused to close the sale. *Id.* at ¶ 97.

Based upon the foregoing allegations, the Complaint asserts claims for breach of contract, promissory fraud, and tortious breach of contract for breach of the implied covenant of good faith and fair dealing. In Count I, for breach of contract, Debtors allege that the Defendants have materially and continually breached the APA by (a) failing to consummate and close the SGM Sale in accordance with the APA; (b) failing to have funds available to close the SGM Sale at the price set forth in the APA; (c) representing in § 3.9 of the APA and elsewhere that they had the ability to obtain "funds in cash in amounts equal to the purchase price"; (d) attempting to coerce the Debtors to agree to a substantially reduced purchase price; (e) failing to cooperate with the Debtors and move with alacrity towards closing the SGM Sale; (f) making unfunded and untimely assertions of alleged Material Adverse Effects; (g) asserting entitlement to an "Evaluation Period" when no such period existed after entry of the Sale Enforcement Order, the Section 8.6 Order and the Material Adverse Effect Order; (h) appealing the Sale Enforcement Order to avoid its obligation to close and despite the APA's requirement that the Defendants cooperate to render it a final, nonappealable order; and (i) filing meritless and frivolous Notices of Appeal. *Id.* at ¶ 100.

In Count II, for promissory fraud, Debtors allege that at the time Defendants entered into the APA, Defendants had no intention of performing in accordance with

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the APA, and that Defendants concealed their true intention not to fund the \$610 million purchase price for the purpose of holding the estate, creditors, and patients at the Hospitals hostage in an attempt to extort a lower purchase price. *Id.* at ¶ 102.

In Count III, for tortious breach of contract, Debtors allege that Defendants tortiously breached the APA and the implied covenant of good faith and fair dealing by (a) entering into the APA with no intention to perform their obligations thereunder; (b) failing to consummate and close the SGM Sale in accordance with the APA; (c) failing to have funds available to close the SGM Sale at the \$610 million purchase price set forth in the APA; (d) attempting to coerce Plaintiffs to engage in a re-trade at a lower price; (e) failing to cooperate with Debtors and move with alacrity towards closing the SGM Sale; (f) making unfounded and untimely assertions of alleged Material Adverse Effects; (g) asserting entitlement to an Evaluation Period to which Defendants were not entitled; (h) filing meritless Notices of Appeal; and (i) failing to respond to Debtors' inquiries regarding SGM's intent and financial ability to perform under the APA. *Id.* at ¶ 107.

**G. SGM's Emergency Motion to Stay the Adversary Proceeding**

On January 16, 2020, SGM filed an emergency motion to stay the adversary proceeding that had been commenced by the filing of the Complaint (the "Stay Motion"). The Court declined to set a hearing on the Stay Motion on 48 hours' notice, as requested by SGM. Instead, the Court *sua sponte* extended the deadline for Defendants to respond to the Complaint to February 19, 2020, to enable the Stay Motion to be heard on regular notice. *See* Doc. No. 15.

In the Stay Motion, SGM asserts that the Court lacks jurisdiction to adjudicate the adversary proceeding until final resolution of SGM's appeals of the Sale Enforcement Order, the Section 8.6 Order, and the Material Adverse Effect Order (collectively, the "Orders"). SGM argues that the issues raised by the Orders touch directly on the issues raised in the adversary proceeding. SGM contends that the Complaint relies heavily on the finding in the Material Adverse Effect Order that the Debtors had complied with all the conditions required for closing and that SGM was obligated to close on December 5, 2019. SGM further maintains that the Complaint overlaps with the Orders because the Complaint alleges that SGM breached the APA by (a) asserting entitlement to an Evaluation Period when no such period existed after entry of the Orders; (b) appealing the Sale Enforcement Order to avoid its obligation to close and despite the APA's requirement that Defendants cooperate to render the Sale Enforcement Order final and non-appealable; and (c) filing meritless and frivolous

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Notices of Appeal of the Orders.

**H. The Debtors' Opposition to the Stay Motion**

The Debtors arguments in opposition to the Stay Motion may be summarized as follows:

The divestiture rule provides that the filing of a notice of appeal "confers jurisdiction on the court of appeals and divests the district court of those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). The Ninth Circuit has held:

The "divestiture of jurisdiction rule is not based upon statutory provisions or the rules of civil or criminal procedure. Instead, it is a judge made rule originally devised in the context of civil appeals to avoid confusion or waste of time resulting from having the same issues before two courts at the same time." *United States v. Claiborne*, 727 F.2d 842, 850 (9th Cir. 1984). Though *Griggs* referred to the "divestiture rule" as jurisdictional, the Supreme Court has since made clear that "[o]nly Congress may determine a lower federal court's subject-matter jurisdiction." *Hamer v. Neighborhood Hous. Services of Chicago*, — U.S. —, 138 S.Ct. 13, 17, 199 L.Ed.2d 249 (2017) (quoting *Kontrick v. Ryan*, 540 U.S. 443, 452, 124 S.Ct. 906, 157 L.Ed.2d 867 (2004)). Accordingly, "jurisdictional" rules derived from sources other than Congress are more accurately characterized as "mandatory claim-processing rules" that may be applied in a "less stern" manner than true jurisdictional rules.

*Rodriguez v. Cty. of Los Angeles*, 891 F.3d 776, 790–91 (9th Cir. 2018).

As a pragmatic rule, divestiture (a) does not preclude the Court from exercising jurisdiction over all other matters that it must undertake to implement or enforce the judgment or order, and (b) in the absence of a stay pending appeal, only prohibits modification of the order on appeal. A careful reading of the Orders and the Complaint shows that application of the divestiture rule is not appropriate here. The Orders cover discrete issues concerning the Debtors' efforts to close the now-terminated SGM Sale. The Orders are not dispositive of the claims asserted in the Complaint. The Court acknowledged as much in the OSC Memorandum, which stated that "[i]n the future, the Debtors will have an opportunity to litigate the issues of whether SGM has breached the APA and whether the Debtors are entitled to retain

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SGM's good-faith deposit." OSC Memorandum at 2. The divestiture rule only prohibits the Court from altering or amending the Orders, and the Complaint does not seek such relief. *See Sherman v. SEC (In re Sherman)*, 491 F.3d 948, 967 (9th Cir. 2007) (internal citation omitted) (holding that where divestiture applies, the "bankruptcy court retains jurisdiction over all other matters that it must undertake 'to implement or enforce the judgment or order,' although it 'may not alter or expand upon the judgment.' If a party wants to stay all of the proceedings in bankruptcy court while an appeal is pending, it must file a motion for a stay.").

The divestiture rule is not properly invoked with respect to the Section 8.6 Order and Material Adverse Effect Order, because both orders are interlocutory. "Filing an appeal from an unappealable decision does not divest the district court of jurisdiction." *United States v. Hickey*, 580 F.3d 922, 928 (9th Cir. 2009). The Section 8.6 Order is interlocutory because its findings were limited to the Debtors' satisfaction of § 8.6 of the APA, and it did not address whether other conditions to closing had been satisfied. *See* Section 8.6 Order at 2 (finding that "SGM is now obligated to promptly close the SGM Sale, *provided that* all other conditions to closing are satisfied") (emphasis added). The Material Adverse Effect Order is interlocutory because it did not compel SGM to close the SGM Sale. Rather, it interpreted the Material Adverse Effect clause and closing conditions in the APA, determined that those provisions were satisfied, and, in light of those findings and the Debtors' outstanding contractual demand, determined that December 5, 2019 was the closing date under § 1.3 of the APA.

Even if the divestiture rule did apply—which it does not—the Court could still adjudicate the Complaint because the divestiture rule is subject to exceptions. As explained by the United States District Court for the Northern District of California:

[T]here are generally three situations where a notice of appeal does not divest the district court of jurisdiction: (1) where the issue before the district court is separate from, or collateral to, the matter involved in the appeal; (2) where application of the divestiture of jurisdiction rule would wholly undermine its purpose; and (3) where the appeal is clearly defective or frivolous, usually by reason of untimeliness, lack of essential recitals, or reference to a nonappealable order.

*Ashker v. Cate*, No. 09-cv-05796-CW, 2019 WL 1558932, at \*3 (N.D. Cal. Apr. 10, 2019)

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(quotations omitted).

The appeals of the Orders are constitutionally and equitably moot. As a result, the appeals are clearly defective and frivolous, and application of the divestiture rule would wholly undermine its purpose.

The relief set forth in each of the Orders contemplates the effectiveness and closing of the SGM Sale pursuant to the APA. The Court cannot grant relief with respect to closing the SGM Sale given the dramatic change in circumstances after SGM's refusal to close. The APA was terminated on December 27, 2019. The Debtors obtained orders authorizing them to undertake alternative transactions and authorizing the closure of St. Vincent Medical Center. It is no longer possible for the Debtors to close the transaction contemplated by the APA. Consequently, the Orders—which each pertain to the closing of the SGM Sale—are moot.

Finally, SGM has waived its ability to assert that the divestiture rule applies. The APA provides that disputes regarding the occurrence of a Material Adverse Effect "shall be exclusively settled by a determination made by the Bankruptcy Court ...." APA at § 9.1(c). This provision constitutes an enforceable contractual appeal waiver. *See Minesen Co. v. McHugh*, 671 F. 3d 1332, 1339 (D.C. Cir. 2012) (extensive case law permits voluntary waivers of rights to appeal); *Slattery v. Ancient Order of Hibernians in Am.*, No. 97-7173, 1998 WL 135601, at \*1 (D.C. Cir. Feb. 9, 1998) (dismissing appeal where parties "agree[d] not to appeal any decision by the district court relating to defendants' motion for attorneys' fees"). Because SGM has waived its appellate rights with respect to Material Adverse Effect determination, it cannot invoke the divestiture rule.

Section 12.3 of the APA provides that "the parties irrevocably elect, as the sole judicial forum for the adjudication of any matters arising under or in connection with the Agreement, and consent to the exclusive jurisdiction of, the Bankruptcy Court." As a result of this waiver, SGM cannot invoke the divestiture rule with respect to the Sale Enforcement Order or the Section 8.6 Order.

**I. The Committee's Opposition to the Stay Motion and the Committee's Motion to Intervene**

The Official Committee of Unsecured Creditors (the "Committee") filed an opposition to the Stay Motion (the "Committee Opposition"). In its reply briefing, SGM asserted that the Committee Opposition should be stricken because the Committee (1) is not a party to the adversary proceeding, (2) has not obtained Court permission to intervene in the adversary proceeding, and (3) has no standing to



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participate in the adversary proceeding.

The Court authorized the Committee to notice a hearing on an emergency motion to intervene (the "Intervention Motion") concurrently with the hearing on the Stay Motion. The Committee seeks to intervene for the limited purpose of opposing the Stay Motion. The Committee has not yet decided whether it will move to intervene as to the remainder of the adversary proceeding.

In support of the Intervention Motion, the Committee argues that multiple circuit courts have held that, under § 1109(b), a creditors' committee may appear and be heard in *any proceeding* in the bankruptcy court—including adversary proceedings. *See, e.g., In re Caldor Corp.*, 303 F.3d 161, 175-76 (2nd Cir. 2002) (term loan holder committee had unconditional right under Section 1109(b) to intervene in adversary proceeding against Chapter 11 debtors); *Matter of Marin Motor Oil, Inc.*, 689 F.2d 445, 451-54 (3rd Cir. 1982) (under Section 1109(b), creditors' committee had "absolute right" to intervene in adversary proceeding). In the alternative, the Committee asserts that it meets the requirements for intervention as of right under Civil Rule 24(a)(2). Specifically, the Committee maintains that it has a significant protectable interest in this matter, given that the Debtors' claims against SGM for breach of contract represent a significant source of money that might be available to provide a recovery to unsecured creditors.

The Committee's arguments in opposition to the Stay Motion may be summarized as follows:

The Stay Motion is nothing more than an attempt by SGM to indefinitely delay resolution of the Complaint. SGM's breach of the APA cost the estates not less than \$100 million, resulted in a material loss of jobs, and adversely impacted local access to healthcare.

The Committee is concerned that, in the course of the delay that SGM seeks, SGM's principals will strip SGM of its assets, negating its ability to satisfy a future judgment.

SGM's misconduct is illustrated by its appeal of the Supplemental Sale Order. The rationale for § 8.6 of the APA was that it might prove risky for SGM to close the sale if the Supplemental Sale Order was appealed, given that an appeal could expose SGM to the more onerous Additional Conditions that it had not agreed to accept. To that end, § 8.6 gave SGM the option to walk away if an appeal of the Supplemental Sale Order remained pending at the time of closing. It was never contemplated that SGM itself could trigger such optionality (i.e., grant itself a right to walk away) by filing an

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appeal of the very Supplemental Sale Order it needed for comfort. But this now appears to be precisely SGM's position.

**J. SGM's Reply in Support of the Stay Motion**

SGM's arguments in reply to the Debtors' opposition may be summarized as follows:

The divestiture rule applies where, as here, the issues in the lower court "involve aspects of the case that are the subject of the pending appeal." *Mercado-Guillen v. McAleenan*, 2019 WL 1995331, at \*2 (N.D. Cal. May 6, 2019). At base, the Complaint seeks to hold SGM liable for failing to close the SGM Sale in accordance with the APA. Complaint at ¶ 100. However, it is undisputed that SGM had no duty to close the SGM Sale until the Debtors had satisfied all conditions precedent to closing. SGM has appealed the Material Adverse Effect Order, which found that the Debtors had satisfied all conditions precedent. The Bankruptcy Court cannot adjudicate the issue of whether the Debtors had satisfied the conditions precedent to closing while that same issue is being considered by the District Court in connection with the appeal.

The Debtors assert that the Court need not stay the adversary proceeding because SGM did not seek a stay of any of the appealed Orders. However, the Orders from which SGM appealed are not enforceable orders; if they were, the Debtors would not have filed the Complaint to obtain damages. SGM had no need to seek a stay until the Debtors filed the Complaint, which created the prospect of two courts ruling on the same issues at the same time.

The Debtors assert that the divestiture rule does not apply because SGM's appeals are frivolous. It is not appropriate for the Bankruptcy Court to determine whether the appeals are frivolous; such a determination would usurp the authority of the District Court.

Along similar lines, the Debtors assert that the divestiture rule does not apply because the Orders were interlocutory. Questions about the District Court's jurisdiction over the appeals should be left to the District Court. However, the Debtors' contention that the Orders were interlocutory is mistaken. The Material Adverse Effect Memorandum unambiguously and finally decided that "all conditions precedent to closing have been satisfied" and that "SGM is obligated to close the sale by no later than December 5, 2019." Material Adverse Effect Memorandum at 7. This was a final order—after its entry, there were no other sale conditions left for the Court

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to interpret, and SGM was obligated to close the sale.

If SGM is not permitted to proceed with its appeals of the Orders prior to adjudication of the Complaint, then SGM will be subject to the Debtors' argument that the Orders preclude SGM from contesting the Complaint's allegations—in particular, the allegation that SGM failed to timely close the sale notwithstanding its obligation to do so. This would enable the Debtors to obtain a judgment in their favor on their breach of contract claims without the Defendants ever having had the opportunity to present evidence in defense of those claims.

There is no merit to the Debtors' contention that the appeals are moot because the APA has been terminated. It is true that it is no longer possible for the sale contemplated by the APA to close. But that has nothing to do with the Complaint, which requires a determination over which party breached the APA.

The Debtors' argument that SGM waived its rights to appeal or to invoke the divestiture rule are likewise without merit. The waiver of a right to appeal must be express. *In re Deepwater Horizon*, 785 F.3d 986, 997 (5th Cir. 2015). The "exclusively settled" and "sole judicial forum" language in §§ 9.3(c) and 12.3 of the APA simply provides the forum in which disputes arising under the APA would be adjudicated. Nothing in either section can reasonably be interpreted as an express waiver of the right to appellate review.

## **II. Findings and Conclusions**

### **A. The Committee is Authorized to Intervene for the Limited Purpose of Opposing the Stay Motion**

The Committee is authorized to intervene for the limited purpose of opposing the Stay Motion. The Court declines SGM's request to strike the Committee Opposition.

The Second and Third Circuits have both held that, pursuant to § 1109(b), a creditors' committee has an unconditional right to intervene in an adversary proceeding within a Chapter 11 case. *See Term Loan Holder Committee v. Ozer Group, LLC (In re Caldor Corp.)*, 303 F.3d 161, 176 (2d Cir. 2002) and *Committee v. Michaels (Matter of Marin Motor Oil, Inc.)*, 689 F.2d 445, 451 (3d Cir. 1982).

Here, the Committee has sought authorization to intervene solely for the purposes of opposing the Stay Motion. SGM acknowledges that the Committee has the authority to be heard on issues arising in the main bankruptcy case, but contends that the Committee's right to be heard does not apply to the instant adversary proceeding. However, SGM initially filed the Stay Motion in the main bankruptcy case; it re-filed the Stay Motion in the adversary proceeding only after being ordered to do so by the

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Court. SGM's decision to initially file the Stay Motion in the main bankruptcy case severely undercuts its assertion that the Committee lacks standing with respect to the Stay Motion.

Even if the Stay Motion had not initially been filed in the main bankruptcy case, the Court would find it appropriate to permit the Committee to intervene for the limited purpose of opposing the Stay Motion. The timing of the adjudication of the Complaint will significantly affect the creditors that the Committee represents. In the event the Debtors prevail, the creditors that the Committee represents may be entitled to a portion of the recovery. The Committee has an interest in assuring that the Complaint is not stayed pending the outcome of SGM's appeals of the Orders. That interest is significant enough to confer standing upon the Committee to oppose the Stay Motion.

In the event the Committee wishes to be heard in connection with future issues arising in this adversary proceeding, the Committee shall file a further motion to intervene.

**B. The Stay Motion is Denied**

"The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58, 103 S.Ct. 400, 74 L.Ed.2d 225 (1982).

The premise of the Stay Motion is that the Orders contain findings which (a) preclude SGM from defending itself against the Complaint's allegations and (b) require the Court to enter judgment in the Debtors' favor on the breach of contract claim. Based upon this premise, SGM asserts that the adversary proceeding must be stayed until the completion of its appeals of the Orders.

SGM's premise is not correct. The Orders do not adjudicate whether SGM had breached the APA; nor do the Orders contain findings that compel the Court to rule in the Debtors' favor with respect to the Complaint's breach of contract claim. The Orders were entered "[t]o facilitate an expeditious and successful resolution of these cases," Section 8.6 Order at 2. To that end, the Orders contained various findings necessary to allow the SGM Sale to proceed. The sole purpose of those findings was to provide the framework necessary for the Debtors and SGM to promptly close the SGM Sale. The findings were not intended to create a springboard for a claim for breach of contract against SGM.

Significantly, nothing in the Orders determined SGM's liability, if any, for breach

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of the APA. The limited scope of the Orders was made clear in the OSC Memorandum, in which the Court emphasized that the issue of whether SGM had breached the APA had not yet been decided: "*In the future*, the Debtors will have the opportunity to litigate the issues of whether SGM has breached the APA and whether the Debtors are entitled to retain SGM's good-faith deposit." OSC Memorandum at 2.

The APA was terminated on December 27, 2019. St. Vincent, one of the Hospitals whose sale was contemplated by the APA, has now closed. The SGM Sale is dead and cannot be resuscitated. The findings in the Orders—which the Court made only to facilitate the closing of the SGM Sale—cannot spring back to life in the entirely different context of the Debtors' breach of contract claim. The Orders do not preclude SGM from contesting the Debtors' allegation that SGM breached the APA. SGM remains free to present evidence in this proceeding in support of its position that as of December 5, 2019, it was not obligated to close the SGM Sale. The corollary is that the Debtors cannot rely solely upon the Material Adverse Effect Order to support their allegation that SGM was obligated to close as of December 5, 2019.

Because the findings in the Orders were limited to the failed SGM Sale, those findings are not dispositive of the claims asserted in the Complaint. Consequently, SGM's appeal of the Orders has not divested this Court of jurisdiction over the separate issues arising in the Complaint.

An additional reason for the inapplicability of the divestiture rule is that SGM has waived its right to appeal the Orders. To prevent abusive appeals undertaken "to run up an adversary's costs or to delay trial," the Court may decline to apply the divestiture rule if it certifies that an appeal has been waived. *Rodriguez v. Cty. of Los Angeles*, 891 F.3d 776, 791 (9th Cir. 2018). SGM has waived its right to appeal any of the Orders. With respect to the Material Adverse Effect Order, the APA provides that "any dispute between Purchaser [SGM] and Sellers [the Debtors] as to whether a Material Adverse Effect has occurred for any purpose under this Agreement *shall be exclusively settled* by a determination made by the Bankruptcy Court." APA at § 9.1(c) (emphasis added). With respect to the Sale Enforcement Order and the Section 8.6 Order, § 12.3 of the APA provides that "the parties irrevocably elect, *as the sole judicial forum* for the adjudication of any matters arising under or in connection with the Agreement, and consent to *the exclusive jurisdiction of*, the Bankruptcy Court ...." The Court will certify to the District Court that SGM has waived its right to appeal the Orders. For this additional reason, the divestiture rule does not apply.

Based upon the foregoing, the Stay Motion is DENIED. The Court will prepare

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and enter an order denying the Stay Motion, an order granting the Intervention Motion, and a certification that SGM has waived its right to appeal the Orders.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

Kali P. Chaudhuri, M.D., an

Pro Se

Strategic Global Management, Inc.,

Pro Se

KPC Healthcare Holdings, Inc., a

Pro Se

KPC Health Plan Holdings, Inc., a

Pro Se

KPC Healthcare, Inc., a Nevada

Pro Se

KPC Global Management, LLC, a

Pro Se

Does 1 through 500

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Plaintiff(s):**

Seton Medical Center, a California	Represented By Samuel R Maizel Tania M Moyron
Verity Holdings, LLC, a California	Represented By Samuel R Maizel Tania M Moyron
VERITY HEALTH SYSTEM OF	Represented By Samuel R Maizel Tania M Moyron
ST. VINCENT MEDICAL	Represented By Samuel R Maizel Tania M Moyron
St Vincent Dialysis Center, Inc., a	Represented By Samuel R Maizel Tania M Moyron
ST. FRANCIS MEDICAL	Represented By Samuel R Maizel Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01001 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#18.00** Hearing  
RE: [27]Official Committee Of Unsecured Creditors' Emergency Motion To Intervene Re: Strategic Global Management, Inc.'s Emergency Motion To Stay Adversary Proceeding

Docket 27

**Tentative Ruling:**

2/10/2020

See Cal. No. 17, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

Kali P. Chaudhuri, M.D., an

Pro Se

Strategic Global Management, Inc.,

Represented By

Jeffrey S Kwong

Gary E Klausner

KPC Healthcare Holdings, Inc., a

Pro Se

KPC Health Plan Holdings, Inc., a

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

KPC Healthcare, Inc., a Nevada Pro Se

KPC Global Management, LLC, a Pro Se

Does 1 through 500 Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF  
Represented By  
Samuel R Maizel  
Tania M Moyron

ST. VINCENT MEDICAL  
Represented By  
Samuel R Maizel  
Tania M Moyron

St Vincent Dialysis Center, Inc., a  
Represented By  
Samuel R Maizel  
Tania M Moyron

ST. FRANCIS MEDICAL  
Represented By  
Samuel R Maizel  
Tania M Moyron

Seton Medical Center, a California  
Represented By  
Samuel R Maizel  
Tania M Moyron

Verity Holdings, LLC, a California  
Represented By  
Samuel R Maizel  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01405 Elissa D. Miller, solely in her capacity as chapte v. American Express

**#100.00** Pre-Trial Conference

RE: [1] Adversary case 2:18-ap-01405. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against American Express Company, a New York Corporation, American Express Travel Related Services Company, Inc., a New York Corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT...**

**QUIGG LA11, LLC**

**Chapter 7**

Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-10616 Manuel Macias**

**Chapter 7**

Adv#: 2:19-01128 Krasnoff, Chapter 7 Trustee v. Estrada et al

**#101.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01128. Complaint by Brad D. Krasnoff, Chapter 7 Trustee against Janet Estrada, Steven Molina. (Charge To Estate). -Complaint to Avoid Voidable Transactions and for Turnover Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)) (D'Alba, Michael)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 7-16-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Manuel Macias

Represented By  
Jennifer Ann Aragon - SUSPENDED -

**Defendant(s):**

Janet Estrada

Pro Se

Steven Molina

Pro Se

**Plaintiff(s):**

Brad D. Krasnoff, Chapter 7 Trustee

Represented By  
Michael G D'Alba

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-21250 Thomas Ernesto Merino**

**Chapter 7**

Adv#: 2:18-01460 Foreman v. Merino

**#102.00 Pre-Trial Conference**

RE: [1] Adversary case 2:18-ap-01460. Complaint by Star Rae Foreman against Thomas Ernesto Merino . 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)) (Del Mundo, Wilfredo) Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo). Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo).

FR. 6-19-19

Docket 1

**Tentative Ruling:**

2/10/2020

Plaintiff has failed to take any action whatsoever to fulfill her obligations in connection with this Pretrial Conference. Pursuant to a Scheduling Order issued on July 2, 2019 [Doc. No. 56], Plaintiff was obligated to submit a proposed Joint Pretrial Stipulation. After Plaintiff failed to timely submit the Joint Pretrial Stipulation, the Court issued an Order to Comply. The Order to Comply required the parties to submit a Joint Pretrial Stipulation by no later than ten days prior to the Pretrial Conference. If Defendant failed to cooperate with Plaintiff, the Order to Comply required Plaintiff to lodge a separate proposed Pretrial Order by no later than seven days prior to the Pretrial Conference. Plaintiff has failed to respond to the Order to Comply.

The Defendant has requested a continuance of the trial until the end of 2020, based upon his work schedule. The Defendant further states that he attempted to schedule mediation with the mediators assigned by the Court, but that his attempts were unsuccessful.

By separate order, the Court will require the Plaintiff to appear and show cause why this action should not be dismissed for failure to prosecute, pursuant to Civil Rule 41. The date and time of that hearing will be set forth in the Order to Show Cause.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Thomas Ernesto Merino**

**Chapter 7**

The trial, set for the week of February 24, 2020, is VACATED.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Thomas Ernesto Merino

Represented By  
Kourosh M Pourmorady

**Defendant(s):**

Thomas Ernesto Merino

Pro Se

**Plaintiff(s):**

Star Rae Foreman

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, February 11, 2020

Hearing Room 1568

11:00 AM

**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#103.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 11:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#104.00** Pre-Trial Conference  
RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 5-14-19

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-14-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By  
Samuel R Maizel



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-16496 JW Wireless Inc.**

**Chapter 7**

**#1.00** Hearing re [49] Objection to Claim #2 by Claimant Atlantic Wireless, Inc.. in the amount of \$ 2,000,000.00 Filed by Creditor Lea Young Lee

fr: 4-17-19; FR. 9-25-19

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-19-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

JW Wireless Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Robert P Goe  
Thomas J Eastmond

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-16496 JW Wireless Inc.**

**Chapter 7**

**#2.00** Hearing re [43] Objection to Claim #2 by Claimant Atlantic Wireless, Inc.. in the amount of \$ \$2,000,000.00

fr: 3-20-19; 4-17-19;l FR. 9-25-19

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-19-20 AT 10:00 A.M.**

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

**Debtor(s):**

JW Wireless Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17353 Maria G Gallarza-Dominguez**

**Chapter 11**

**#3.00 Post confirmation status conference**

fr. 11-5-19

Docket 98

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-19-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Maria G Gallarza-Dominguez

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23952 Sella Care, Inc.**

**Chapter 7**

**#4.00 Show Cause Hearing re [15] Order Requiring Debtor To Appear And Show Cause Why It Should Not Be Sanctioned In The Amount Of Movant's Reasonable Attorney's Fees For Filing A Frivolous Chapter 7 Case**

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-19-20 AT 11:00 A.M.**

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

Sella Care, Inc.

Represented By  
Young K Chang

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23145 Jean Gharib Markariyan and Volga Avanesian**

**Chapter 7**

**#1.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2009 Mini Hardtop; VIN: WMWFMF33529TT68603 .

Docket 10

**Tentative Ruling:**

2/11/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See Doc. No. 1.*

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Jean Gharib Markariyan and Volga Avanesian Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Jean Gharib Markariyan

Represented By  
Scott Kosner

**Joint Debtor(s):**

Volga Avanesian

Represented By  
Scott Kosner

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24707 Laquinta Williams-Johnson**

**Chapter 7**

**#2.00** HearingRE: [14] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Volkswagen Jetta, VIN: 3VW2K7AJ7FM312130 . (Wang, Jennifer)

Docket 14

**Tentative Ruling:**

2/11/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, February 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Laquinta Williams-Johnson**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Laquinta Williams-Johnson

Represented By  
Kevin Tang

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, February 19, 2020

Hearing Room 1568

10:00 AM

2:10-36936 Pejman V. Mehdizadeh

Chapter 7

#1.00 APPLICANT: Trustee: JASON M RUND

Hearing re [96] and [97] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/18/2020

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$6,500 [*see* Doc. No. 97]

Total Expenses: \$61.50 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Fee applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Pejman V. Mehdizadeh

Represented By  
Edmond Nassirzadeh

**Trustee(s):**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Pejman V. Mehdizadeh**  
Jason M Rund (TR)

Represented By  
Brad Krasnoff  
Aaron E de Leest  
Eric P Israel

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, February 19, 2020

Hearing Room 1568

10:00 AM

**2:10-36936 Pejman V. Mehdizadeh**

**Chapter 7**

**#2.00** APPLICANT: Attorney for Trustee: DANNING GILL ISRAEL & KRASNOFF, LLP

Hearing re [96] and [97] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/18/2020

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$41,500 approved

Expenses: \$1,893.44 approved

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The fee applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Pejman V. Mehdizadeh

Represented By  
Edmond Nassirzadeh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Pejman V. Mehdizadeh**

**Chapter 7**

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Brad Krasnoff  
Aaron E de Leest  
Eric P Israel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, February 19, 2020

Hearing Room 1568

10:00 AM

2:10-36936 Pejman V. Mehdizadeh

Chapter 7

#3.00 APPLICANT: Accountant for Trustee: HAHN FIFE & COMPANY LLP

Hearing re [96] and [97] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

2/18/2020

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

**Fees:** \$1,722 approved

**Expenses:** \$274.90 approved

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The fee applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Pejman V. Mehdizadeh

Represented By  
Edmond Nassirzadeh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Pejman V. Mehdizadeh**

**Chapter 7**

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Brad Krasnoff  
Aaron E de Leest  
Eric P Israel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01110      Nguyen dba Sam Bullion & Coin v. Zendedel

**#4.00**      Hearing re [26] Examination re Enforcement of Judgment of Judgment Debtor  
BAHRAM ZENDEDEL aka ROBERT ZENDEDEL

fr. 12-3-19

Docket      0

**Tentative Ruling:**

2/18/2020

Appearances required.

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Sam Thuy Nguyen dba Sam Bullion

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes



**United States Bankruptcy Court  
Central District of California  
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Courtroom 1568 Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 1568**

10:00 AM

**2:14-25758 Wesley Brian Ferris**

**Chapter 11**

**#5.00** Post-Confirmation Status Conference re Confirmation of Debtor's Chapter 11 Plan

fr. 7-6-16; 10-4-16; 11-9-16; 4-11-17; 7-11-17; 12-19-17; 5-16-18; 10-16-18; 3-13-19; 7-17-19; 11-13-19

Docket 109

**Tentative Ruling:**

2/18/2020

No appearances required. This is a post-confirmation status conference. A continued Post-Confirmation Status Conference shall be held **June 17, 2020, at 10:00 a.m.** A Post-Confirmation Status Report must be submitted by no later than fourteen days prior to the hearing. The Post-Confirmation Status Report must explain how the Debtor will come back into compliance with the terms of the Plan, and whether in doing so, he will become current on the Alta Vista loan or sell the Alta Vista property.

With respect to the Greystone loan, if the Debtor is unable to reach a resolution with Shellpoint regarding implementation of Plan provisions, the Debtor shall file and serve a motion to enforce the Plan by no later than **May 19, 2020**.

**Pleadings Filed and Reviewed:**

1) Debtor's Eighth Post-Confirmation Status Report [Doc. No. 258]

**I. Facts and Summary of Pleadings**

On August 15, 2014, Wesley Brian Ferris (the "Debtor") filed a voluntary chapter 11 petition. The Court entered an order confirming Debtor's First Amended Chapter 11 Plan of Reorganization (the "Plan") [Doc. No. 171] on March 8, 2017. Doc. No. 190. The effective date of Debtor's Plan was April 7, 2017 (the "Effective Date").

The Debtor filed the Eighth Post-Confirmation Status Report on February 5, 2020 (the "Status Report") [Doc. No. 210]. The Status Report explains that the Debtor has faced difficulties in consummating the Plan because of issues arising from the secured

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**CONT...**

**Wesley Brian Ferris**

**Chapter 11**

claims in Classes 1A and 2. For reference, the Debtor's primary assets consist of three real property parcels (individually referred to as "Alta Vista," "Myrtle," and "Greystone"). As stated in the Status Report, the Debtor is current or has fully satisfied obligations on Classes 3A, 3B, 4, and 5.

**Class 2**

Class 2 consists of the Bank of New York Mellon's secured loan (the "Greystone Loan"), which was, until recently, serviced by Bayview Loan, LLC ("Bayview"). On January 31, 2020, Shellpoint Mortgage Servicing ("Shellpoint") was designated as the new servicer on the Greystone Loan. On February 2, 2019, Bayview filed a *Notice of Breach of Confirmed Chapter 11 Plan re Real Property Located at 443 East Greystone Avenue, Monrovia, CA 91016* [Doc. No. 241] stating that as of February 6, 2019, the Debtor had failed to make twenty (20) post-confirmation payments (from July 2017 to February 2019), and that the total outstanding default was approximately \$65,128.45.

As set forth in the Status Report, the Debtor contends this issue stemmed from confusion regarding Debtor's mailing address: Bayview's billing statements were delivered to Debtor's counsel's old office address, and as consequence, Debtor's attempts to tender plan payments were rejected because such payments were not accompanied by the billing stubs he failed to receive. Status Report at 5. At the November 13, 2019 status conference, Bayview, through its counsel, advised the Court that Bayview had honored the Greystone Loan terms provided in the Plan as early as January 2019. Bayview also maintained that the Debtor had not cured arrears on the loan, but that it would work with the Debtor on an updated default balance. Although Debtor reports that it provided Bayview with a required change of address form, he asserts that numerous attempts to obtain an updated balance statement from Bayview have been ignored. Status Report at 5-6.

The Debtor further reports that he has requested Shellpoint's primary contact person's information on whom he will serve a motion or adversary action to enforce the Greystone Loan terms as stated in the Plan. Status Report at 6. Greystone remains rented, but the Debtor anticipates he will need to cover a modest deficiency on plan payments from his personal income. *Id.* at 8.

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CONT... Wesley Brian Ferris

Chapter 11

**Class 1**

The Class 1 claim (the "Alta Vista Loan") is serviced by Specialized Loan Servicing ("Specialized"). The Debtor claims that he remained current on plan payments on the Alta Vista Loan until the property became vacant and he became unemployed. The Status Report alleges that because Specialized never delivered a monthly bill statement after the Effective Date, the Debtor does not know the exact amount of arrears or the loan's remaining balance. Status Report at 7. Debtor also claims that his counsel has sent numerous e-mails to Specialized's counsel concerning repayment, but has received no response. *Id.* It is Debtor's position that, until he obtains the requested information from Specialized, through a discovery motion, he will be incapable of becoming current on the Alta Vista Loan or selling the property. *Id.* at 8-9. Alta Vista is listed for rent, and having accomplished cosmetic improvements on the property, the Debtor expects it will soon be rented.

The Debtor requests that the post-confirmation status conference be continued again for 120-180 days.

**II. Findings and Conclusions**

No appearances required. This is a post-confirmation status conference. A continued Post-Confirmation Status Conference shall be held on **June 17, 2020, at 10:00 a.m.** A Post-Confirmation Status Report must be submitted by no later than fourteen days prior to the hearing.

With respect to the Class 2 claim, the Court will afford Debtor an opportunity to discuss with Shellpoint the payment of the Greystone Loan, and any arrears accrued, in conformity with the Plan. In the event that the Debtor fails to reach a resolution with Shellpoint with respect to the implementation of Plan provisions, the Debtor shall file and serve a motion to enforce the Plan by no later than **May 19, 2020.**

With respect to the Class 1 claim, the premise of Debtor's argument that Specialized is obligated to provide him with an updated statement on the Alta Vista Loan is not well taken. The Debtor, as proponent of the Plan, has the responsibility of carrying out the terms of the confirmed plan, which reasonably includes keeping track of plan payments and any arrears accrued thereon. *See* 11 U.S.C. § 1142(a) ("[T]he

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**CONT... Wesley Brian Ferris**

**Chapter 11**

Debtor...to be organized for the purpose of carrying out the plan shall carry out the plan and shall comply with any orders of the court."). Moreover, the Court is perplexed as to why the Debtor is incapable of accurately estimating the remaining balance on the Alta Vista Loan by reference to the Plan [Doc. No. 131] and his personal financial records. Based on the foregoing, in the Post-Confirmation Status Report, the Debtor must explain how he will come back into compliance with the terms of the Plan, and whether in doing so, he will become current on the Alta Vista loan or sell the Alta Vista property.

The Court will prepare the order.

If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Wesley Brian Ferris

Represented By  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, February 19, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#6.00 TELEPHONIC Status Hearing**

RE: [30] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19; 1-8-20

fr. 12-19-19

Docket 30

**Tentative Ruling:**

2/18/2020

Order entered. Status Conference **CONTINUED** to **April 14, 2020, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

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

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**Defendant(s):**

U.S. Bank National Association

Represented By  
Jason D Strabo  
Clark Whitmore  
Jason M Reed  
Megan Preusker  
Nathan F Coco  
Mark Shinderman

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
James Cornell Behrens  
Alexandra Achamallah

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Central District of California  
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**Wednesday, February 19, 2020**

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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#7.00 TELEHONIC Status Hearing**

RE: [28] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property)), (91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19; fr. 12-19-19; 1-8-20

Docket 28

**Tentative Ruling:**

2/18/2020

Order entered. Status Conference **CONTINUED to April 14, 2020, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Represented By  
Abigail V O'Brient

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
Alexandra Achamallah



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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#7.10** HearingRE: [4013] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And Motion To Reject, Pursuant To 11 U.S.C. § 365(a), Agreements With Scan Health Plan; Memorandum Of Points And Authorities; Declaration Of Richard G. Adcock

Docket 4013

**Tentative Ruling:**

2/18/2020

Order entered. Matter resolved pursuant to stipulation.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
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Hearing Room 1568

10:00 AM

2:19-13059 Norberto Pimentel and Erica Pimentel

Chapter 7

**#8.00 Show Cause Hearing re [63] Order Requiring Noberto Pimentel And Erica Pimental To Appear And Show Cause Why They Should Not Be Held In Civil Contempt For Knowingly Violating The Court's Order Requiring The Payment Of \$500 In Sanctions To Counsel For The Chapter 7 Trustee. February 19, 2020, at 10:00 a.m.,**

Docket 0

**Tentative Ruling:**

2/18/2020

For the reasons set forth below, the Debtors shall pay the Trustee a sanction of \$1,000 by no later than **April 30, 2020** (consisting of the previously ordered sanction of \$500, plus a sanction of \$500 ordered in connection with this hearing).

**Pleadings Filed and Reviewed:**

- 1) Motion and Notice of Motion for an Order to Show Cause Why the Debtors Should Not be Held in Contempt and Be Sanctioned for their Failure to Comply with the Court's Order of September 27, 2019 to Pay \$500 in Sanctions to the Law Offices of Nicol & Stevens by November 1, 2019 [Doc. No. 62]
- 2) Order Requiring Noberto Pimentel and Erica Pimental to Appear and Show Cause Why They Should Not Be Held in Civil Contempt for Knowingly Violating the Court's Order Requiring the Payment of \$500 in Sanctions to Counsel for the Chapter 7 Trustee (the "Order to Show Cause") [Doc. No. 63]
  - a) Bankruptcy Noticing Center Certificate of Notice of Order to Show Cause [Doc. No. 67]
  - b) Proof of Service of the Order to Show Cause [filed by the Chapter 7 Trustee] [Doc. Nos. 68-70]
- 3) No response to the Order to Show Cause is on file

**I. Facts and Summary of Pleadings**

Noberto Pimentel and Erica Pimentel (collectively, the "Debtors") filed a joint voluntary Chapter 7 petition on March 20, 2019. The Debtors scheduled their interest

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10:00 AM

CONT... **Norberto Pimentel and Erica Pimentel** **Chapter 7**

in real property located at 11421 Angell Street, Norwalk, CA 90650 (the "Property"). On July 25, 2019, the Court denied the Debtors' motion to convert to Chapter 13 (the "Conversion Motion"). *See* Doc. No. 41. The Court found that the Debtors' bad faith failure to provide accurate and complete information in their schedules and in response to questioning under oath warranted denial of the Conversion Motion. *See* Final Ruling Denying Conversion Motion [Doc. No. 40].

On June 18, 2019, the Court authorized the Chapter 7 Trustee (the "Trustee") to employ Keller Williams Realty (the "Broker") to market the Property. *See* Doc. No. 35.

On September 27, 2019, upon motion of the Chapter 7 Trustee (the "Trustee"), the Court ordered the Debtors to cooperate with the Trustee's real estate broker with respect to the marketing of the Property. The Court further ordered the Debtors to pay the Trustee's counsel \$500 in attorneys' fees as a sanction for failing to fulfill their statutory obligation to cooperate with the Trustee. *See* Doc. No. 59 (the "Sanctions Order"). The sanction was to be paid by no later than November 1, 2019. *Id.*

The Debtors failed to pay the sanction by November 1, 2019, as ordered by the Court. On January 13, 2020, the Court issued an order requiring the Debtors to show cause why they should not be held in contempt for knowingly violating the Sanctions Order. *See* Doc. No. 63. The Debtors were also ordered to show cause why they should not be required to pay the Trustee additional sanctions to compensate him for the costs of enforcing the Sanctions Order.

The Debtors have not responded to the Order to Show Cause.

## **II. Findings and Conclusions**

The Bankruptcy Court has authority to impose compensatory civil contempt sanctions pursuant to § 105. *Renwick v. Bennett (In re Bennett)*, 298 F.3d 1059, 1069 (9th Cir. 2002). "The standard for finding a party in civil contempt is well settled: 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." *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178, 1191 (9th Cir. 2003). "The burden then shifts to the contemnors to demonstrate why they were unable to comply." *F.T.C. v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir. 1999).

There is no dispute that the Debtors failed to comply with the Sanctions Order, which required them to pay the Trustee \$500. The Debtors have been provided an opportunity to demonstrate that they lacked the ability to comply with the Sanctions Order. The Debtors did not make use of that opportunity, having failed to submit any

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10:00 AM

CONT... **Norberto Pimentel and Erica Pimentel**

Chapter 7

response to the Order to Show Cause.

The Court will hold the Debtors in contempt for violating the Sanctions Order, and will require the Debtors to pay the Trustee's counsel an additional sanction of \$500, to compensate the Trustee for the costs of enforcing the Sanctions Order. **[Note 1]** By no later than **April 30, 2020**, the Debtors shall pay the Trustee \$1,000, consisting of the original sanction of \$500 plus the \$500 sanction ordered in connection with this hearing.

Within seven days of the hearing, the Trustee shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The Trustee asserts that a sanction of \$1,400 is warranted, based on the fact that counsel spent 3.5 hours attempting to enforce the Sanctions Order at a billing rate of \$400 per hour. A sanction of \$1,400 is excessive. The Court previously sanctioned the Debtors \$500 to compensate the Trustee for the costs of compelling the Debtors' cooperation with the Trustee's real estate broker. The effort required to enforce the Sanctions Order was comparable to that required to compel cooperation with the real estate broker.

**Party Information**

**Debtor(s):**

Norberto Pimentel

Represented By  
Marcus Gomez

**Joint Debtor(s):**

Erica Pimentel

Represented By  
Marcus Gomez

**United States Bankruptcy Court  
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**CONT... Norberto Pimentel and Erica Pimentel**

**Chapter 7**

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Adam Stevens

**United States Bankruptcy Court  
Central District of California  
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**Wednesday, February 19, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-23944 Yean Hee Kim**

**Chapter 7**

Adv#: 2:19-01058 Jeong v. Kim et al

- #9.00** Show Cause Hearing  
RE: [25] Order Requiring Plaintiff To Appear And Show Cause Why This Action Should Not Be Dismissed For Failure To Prosecute, Pursuant To Civil Rule 41(B) .

Docket 25

**Tentative Ruling:**

2/18/2020

This action is dismissed, pursuant to Civil Rule 41(b), based upon Plaintiff's failure to prosecute.

**Pleadings Filed and Reviewed:**

- 1) Order Requiring Plaintiff to Appear and Show Cause Why this Action Should Not be Dismissed for Failure to Prosecute [Doc. No. 24] (the "OSC")
  - a) Bankruptcy Noticing Center Certificate of Notice [Doc. No. 30]
- 2) Response to Order to Show Cause (the "Response") [Doc. No. 32]

**I. Facts and Summary of Pleadings**

On January 14, 2020, the Court issued an *Order Requiring Plaintiff to Appear and Show Cause Why this Action Should Not be Dismissed for Failure to Prosecute* (the "Order to Show Cause") [Doc. No. 24]. The Order to Show Cause required Plaintiff to show cause why this action should not be dismissed for failure to prosecute, based upon Plaintiff's (a) failure to cooperate with the Defendant in the preparation of a proposed Joint Pretrial Stipulation, even after the Court issued an Order to Comply, and (b) failure to appear at the Pretrial Conference.

Plaintiff's counsel requests that the Order to Show Cause be discharged on the ground of excusable neglect. Counsel testifies as follows in support of the request:

I was out of town during the 2019 winter holidays and was unable to access my office. When I returned from my trip, I became sick with influenza (flu) during the time when this Honorable Court issued the Order to Comply

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CONT...

**Yean Hee Kim**

**Chapter 7**

on January 2, 2020. As a result, I inadvertently failed to calendar the Pretrial Conference and respond to opposing counsel's communication to prepare the Joint Pretrial Stipulation.

Iwuchuku Decl. at ¶¶ 3–5.

Defendant did not file an opposition to Plaintiff's response to the Order to Show Cause.

## **II. Findings and Conclusions**

Civil Rule 41(b), made applicable to these proceedings by Bankruptcy Rule 7041, provides in relevant part: "If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) ... operates as an adjudication on the merits."

The Court weighs five factors in determining whether to dismiss a case for lack of prosecution:

- 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 defendants;
- 4) the public policy favoring the disposition of cases on their merits; and
- 5) the availability of less drastic sanctions.

*Moneymaker v. CoBEN (In re Eisen)*, 31 F.3d 1447, 1451 (9th Cir. 1994).

There are three sub-parts to the fifth factor, the availability of less drastic sanctions: "whether the court has considered lesser sanctions, whether it tried them, and whether it warned the recalcitrant party about the possibility of case-dispositive sanctions." *Connecticut Gen. Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d 1091, 1096 (9th Cir. 2007). The application of these factors is not mechanical; instead, the factors provide the Court "with a way to think about what to do, not a set of conditions precedent for sanctions or a script that the [Court] must follow." *Id.*

Here, factors one, two, three, and five weigh in favor of dismissing the action for lack of prosecution. The Court finds that dismissal is warranted as a result of Plaintiff's failure to prosecute.

### **1. Public's Interest in Expeditious Resolution of Litigation**

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CONT... **Yean Hee Kim**

Chapter 7

"The public's interest in expeditious resolution of litigation always favors dismissal." *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002). This factor weighs in favor of dismissal.

**2. The Court's Need to Manage its Docket**

Courts have the "power to manage their dockets without being subject to the endless vexatious noncompliance of litigants ...." *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992), *as amended* (May 22, 1992). "This factor is usually reviewed in conjunction with the public's interest in expeditious resolution of litigation to determine if there is unreasonable delay." *Eisen*, 31 F.3d at 1452.

As discussed in connection with factor three, below, Plaintiff has failed to offer a legitimate excuse for his non-compliance. Plaintiff's non-compliance has made it impossible for the Court to maintain the dates for the Pretrial Conference and trial that were previously ordered. These dates are carefully allocated, well in advance, to balance multiple pending adversary proceedings. This factor weighs in favor of dismissal.

**3. The Risk of Prejudice to the Defendants**

"[T]he failure to prosecute diligently is sufficient by itself to justify a dismissal, even in the absence of a showing of actual prejudice to the defendant from the failure.... The law presumes injury from unreasonable delay." *Eisen*, 31 F.3d at 1452. If the Plaintiff offers "an excuse for his delay that is anything but frivolous, the burden of production shifts to the defendant to show at least some actual prejudice." *Id.* at 1453. "Prejudice itself usually takes two forms—loss of evidence and loss of memory by a witness." *Nealey v. Transportacion Maritima Mexicana, S. A.*, 662 F.2d 1275, 1281 (9th Cir. 1980).

Plaintiff blames the failure to fulfill his obligations in connection with the Pretrial Conference on his case of influenza. Plaintiff does not specify exactly when he became ill, although his declaration does indicate that he was ill as of January 2, 2020, at the time the Court issued the Order to Comply. Plaintiff's excuse for the delay is not sufficient to rebut the presumption of prejudice to the Defendant.

First, pursuant to the Scheduling Order [Doc. No. 16] issued by the Court on May 31, 2019, Plaintiff was required to complete certain tasks in preparation for the Pretrial Conference well before he became ill. There is no evidence that any of these tasks were ever completed. For example, Plaintiff was required to exchange copies of all exhibits intended for introduction at trial by December 15, 2019. Scheduling Order



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CONT... Yean Hee Kim

Chapter 7

at ¶ 2(h) (requiring the exchange of exhibits thirty days prior to the Pretrial Conference). Plaintiff was required to meet and confer with Defendant for the purpose of preparing for the Pretrial Conference by no later than December 17, 2019. *See* Local Bankruptcy Rule (“LBR”) 7016-1(b)(1)(C). Plaintiff was required to serve a proposed Pretrial Stipulation upon the Defendant by no later than December 24, 2019. *See* LBR 7016-1(c)(2). Plaintiff’s attempt to blame his failure to complete these tasks upon an illness that he did not contract until after the deadlines had elapsed is unavailing.

Second, Plaintiff’s testimony is not sufficient to excuse his failure to take any action whatsoever in connection with the Pretrial Conference. The Court understands that appropriate accommodations must be afforded to counsel who become ill during the course of representation. However, a case of influenza does not justify Plaintiff’s complete failure to participate in the Pretrial Conference. Defendant’s counsel telephoned Plaintiff’s counsel on January 2, 3, 6, 7, 8, and 9, 2020, in an attempt to make arrangements for the Pretrial Conference. Smyth Decl. [Doc. No. 23] at ¶ 6. Plaintiff did not return any of Defendant’s calls. At the very minimum, Plaintiff should have contacted Defendant to see if it would be possible to request a stipulated continuance of the Pretrial Conference.

Because Plaintiff has not offered a legitimate explanation for the delay, this factor weighs in favor of dismissal.

**4. The Public Policy Favoring the Disposition of Cases on Their Merits**

“[C]ourts weigh this factor against the plaintiff’s delay and the prejudice suffered by the defendant.” *Eisen*, 31 F.3d at 1454. Normally, “the public policy favoring disposition of cases on their merits strongly counsels against dismissal.” *In re PPA Prods.*, 460 F.3d at 1228. However, “a case that is stalled or unreasonably delayed by a party’s failure to comply with deadlines and discovery obligations cannot move forward toward resolution on the merits.” *Id.* This factor therefore “lends little support” to a party “whose conduct impedes progress in that direction.” *Id.* (citations and quotations omitted). In other words, parties have a responsibility “to refrain from dilatory and evasive tactics.” *Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 652 (9th Cir. 1991).

The public policy favoring resolution of disputes on their merits does not outweigh Plaintiff’s unreasonable delay in prosecuting this action.

**5. The Availability of Less Drastic Sanctions**

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CONT... **Yean Hee Kim**

**Chapter 7**

Upon review of the history of this case, the Court is convinced that less drastic sanctions would not adequately remediate Plaintiff's dilatory conduct. As discussed above, Plaintiff failed to complete multiple tasks in preparation for the Pretrial Conference by the required deadlines; these deadlines occurred before Plaintiff's illness. In an Order to Comply issued prior to the Pretrial Conference, the Court warned Plaintiff that the failure to meaningfully participate in the Pretrial Conference would most likely result in the dismissal of the action for failure to prosecute. *See Connecticut Gen. Life Ins. Co.*, 482 F.3d 1091, 1096 (9th Cir. 2007) (holding that this factor requires the Court to consider whether it warned the recalcitrant party about the possibility of case-dispositive sanctions). Notwithstanding this warning, Plaintiff failed to participate in the Pretrial Conference any manner. Plaintiff did not even return Defendant's multiple telephone calls.

Plaintiff's non-participation in the Pretrial Conference is not the first time that Plaintiff has failed to diligently prosecute this action. On May 31, 2019, the Court ordered Plaintiff to submit an order assigning the matter to mediation (the "Mediation Order") within fourteen days. *See Doc. No. 16*. Plaintiff did not submit the Mediation Order until approximately four months later. *See Doc. No. 18*. There is no indication that Plaintiff completed mediation.

This factor weighs in favor of dismissal.

### **III. Conclusion**

Based upon the foregoing, the action is **DISMISSED** for failure to prosecute. The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Yean Hee Kim

Represented By

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M Teri Lim

**Defendant(s):**

Yean Hee Kim

Pro Se

Yean Hee Kim

Represented By  
Andrew Edward Smyth

**Plaintiff(s):**

Younkyung Jeong

Represented By  
Donald E Iwuchuku

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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**2:20-10264 450 S. Western, LLC, a California limited liability**

**Chapter 11**

**#10.00 FINAL Hearing RE: [5] Motion Authorizing Use Of Cash Collateral**

fr. 1-15-20

Docket 5

**Tentative Ruling:**

2/18/2020

For the reasons set forth below, the Debtor is authorized to use cash collateral in accordance with the Budget through and including April 4, 2020. A hearing on the use of cash collateral subsequent to April 4, 2020, shall take place on **April 1, 2020, at 10:00 a.m.**

**Pleadings Filed and Reviewed:**

- 1) Emergency Motion for Interim and Final Orders Authorizing Use of Cash Collateral (the "Motion") [Doc. No. 5]
  - a) First Day Declaration of Richard J. Laski [Doc. No. 7]
  - b) Amended Order Setting Hearing on First Day Motions [Doc. No. 14]
  - c) Notice of Hearing [Doc. No. 20]
  - d) Declaration of Aylin Sookassians Re Notice of Emergency Hearings on Debtor's First Day Motions [Doc. No. 21]
- 2) Conditional Non-Opposition to Emergency Motion for Interim and Final Orders Authorizing Use of Cash Collateral [Doc. No. 23]
- 3) Ruling Approving Interim Use of Cash Collateral [Doc. No. 29]
- 4) Interim Order Approving Use of Cash Collateral [Doc. No. 31]
- 5) Notice of Final Hearing Re: Emergency Motion for Interim and Final Orders Authorizing Use of Cash Collateral [Doc. No. 37]

**I. Facts and Summary of Pleadings**

On January 10, 2020 (the "Petition Date"), 450 S. Western, LLC (the "Debtor") filed a voluntary Chapter 11 petition. On January 15, 2020, the Court conducted a hearing on the Debtor's emergency motion for an interim order authorizing the use of cash collateral (the "Motion") [Doc. No. 5]. On January 16, 2020, the Court entered

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an interim order authorizing the Debtor to use cash collateral through and including February 20, 2020, and set this hearing on the final approval of the Debtor's use of cash collateral. *See* Doc. No. 31. No opposition to the Motion is on file.

The Debtor owns and operates a three-story, 80,316 square foot shopping center—commonly known as California Marketplace—located at the intersection of South Western Avenue and 5th Street. The shopping center serves the Los Angeles Korean community and contains 28 stores. As of the Petition Date, the shopping center had a 98% occupancy rate.

The Debtor sought bankruptcy protection primarily as the result of litigation with Admire Capital Lending, LLC (“Admire”) and Belmont Two Investment Holdings, LLC (“Belmont”). On September 10, 2015, the Debtor entered into an unsecured promissory note with Belmont and Admire, in the principal amount of \$9.75 million (the “Note”). In litigation before the Los Angeles Superior Court, Belmont and Admire assert a right to convert the Note to equity (the “Conversion Option”). The Debtor disputes the Conversion Option.

As of the Petition Date, the Debtor has secured debt in the estimated amount of approximately \$43 million, as follows:

- 1) G450 LLC—\$29,932,758.97
- 2) Pontis Capital, LLC—\$4,654,666.66
- 3) Five West Capital, LP—\$5,818,333.44
- 4) Evergreen Capital Asset—\$1,260,164.91
- 5) Los Angeles County Treasurer and Tax Collector—\$1,653,568.21
- 6) Los Angeles County Treasurer and Tax Collector—\$246,421.96

Cash collateral will be used to fund payroll and payroll taxes, expenses for maintenance and utilities, and other operating expenses. The Debtor will make monthly adequate protection payments to secured creditor G450 LLC (“G450”) in the amount of \$50,000.

## **II. Findings and Conclusions**

Section 363(c)(2) requires court authorization for the use of cash collateral unless "each entity that has an interest in such cash collateral consents." In the Ninth Circuit, satisfaction of §363(c)(2)(A) requires the "affirmative express consent" of the secured creditor; "implied consent," resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner*

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*Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368–69 (9th Cir. 1987). Absent affirmative express consent, the Debtors "may not use" cash collateral absent the Court's determination that the use is "in accordance with the provisions" of Section 363—that is, that the secured creditor's interest in the cash collateral is adequately protected. § 363(c)(2)(B) and (e).

A secured creditor's interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365 (1988).

Nothing in the record indicates that the California Marketplace, the Debtor's primary asset, is declining in value. The California Marketplace is 98% leased, and the bankruptcy was precipitated by litigation with Belmont and Admire, not operating losses. Based on the absence of evidence of declining value and the proposed adequate protection payments to G450, the Court finds that secured creditors with an interest in the Debtor's cash collateral are adequately protected. In addition, the use of cash collateral to maintain the California Marketplace's operations constitutes further adequate protection. *See In re Megan-Racine Associates, Inc.*, 202 B.R. 660, 663 (Bankr. S.D.N.Y. 1996) (concluding that "[a]s long as there was a continuous income stream being generated by the Debtor, the fact that the Debtor consumed a portion of those monies to operate and maintain the facility each month did not diminish the value of the [secured creditor's] interest in the [cash collateral]").

The Debtor's cash collateral budget (the "Budget") is for the period from the Petition Date through and including April 4, 2020. The Debtor is authorized to use cash collateral in accordance with the Budget through and including April 4, 2020.

A hearing on the use of cash collateral subsequent to April 4, 2020, shall take place on **April 1, 2020, at 10:00 a.m.** The Debtor shall submit further evidence in support of the continued use of cash collateral, including an updated Budget, by no later than **March 11, 2020**. By that same date, the Debtor shall provide notice of the continued hearing and shall file a proof of service so indicating. Opposition to the continued use of cash collateral is due by **March 18, 2020**; the Debtors' reply to any opposition is due by **March 25, 2020**.

Within seven days of the hearing, the Debtor shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you

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intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

450 S. Western, LLC, a California

Represented By  
Aram Ordubegian  
Christopher K.S. Wong  
M Douglas Flahaut

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2:19-23952 Sella Care, Inc.

Chapter 7

**#11.00 Show Cause Hearing re [15] Order Requiring Debtor To Appear And Show Cause Why It Should Not Be Sanctioned In The Amount Of Movant's Reasonable Attorney's Fees For Filing A Frivolous Chapter 7 Case**

**FR. 2-12-20**

Docket 0

**Tentative Ruling:**

2/18/2020:

For the reasons set forth below: Grant Motion.

**Pleadings Filed and Reviewed:**

- 1) Fund Management International, LLC's Response to Order to Show Cause (the "Response") [Doc. No. 20]
  - a) Declaration of Mark L. Edwards, Esq. in Support of an Award of Attorney's Fees Incurred by Funds Management International in Responding to the Complaint
  - b) Declaration of Steven R. Fox, Esq. in Support of an Award of Attorney's Fees Incurred by Funds Management International in Responding to the Complaint
- 2) Order Requiring Debtor to Appear and Show Cause Why It Should Not Be Sanctioned in the Amount of Defendant's Reasonable Attorney's Fees For Filing a Frivolous Chapter 7 Case (the "OSC") [Doc. No. 15]
- 3) Papers related to Debtor's Chapter 7 Case:
  - a) Chapter 7 Petition [Doc. No. 1]
  - b) Order of Dismissal [Doc. No. 7]
  - c) Funds Management International's Notice of Motion and Motion for Relief



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from the Automatic Stay Under 11 U.S.C. § 362 (Action in Nonbankruptcy Forum) (the "R/S Motion") [Doc. No. 8]

- i) Memorandum of Points and Authorities
  - ii) Supplemental Declaration of Mark L. Edwards
  - iii) Funds Management International's Trial Brief (Ex. G)
- 4) As of the preparation of this tentative ruling, the Debtor has not filed a response

## **I. Facts and Summary of Pleadings**

Sella Care, Inc. (the "Debtor") filed this voluntary chapter 7 case on November 27, 2019 (the "Petition Date"). On December 16, 2019, the Debtor's case was dismissed due to its failure to file required commencement documents. On the same day, Fund Management International, LLC ("Movant") filed a motion seeking stay-relief (the "R/S Motion") [Doc. No. 8].

### **Background**

The following summary is meant to provide a broad overview of the misconduct allegedly perpetrated by Debtor, its principals, and other affiliates. For purposes of clarity and brevity, and due to the volume of facts in this case, this tentative ruling will not include a lengthy restatement of the facts relevant to the underlying state court action. Instead, facts will be incorporated within this tentative ruling as needed to explain the Court's legal conclusions.

#### *State Court Litigation History*

On March 1, 2016, the Movant filed an action in the Los Angeles Superior Court entitled *Fund Management International, LLC v. Sella Property, LLC, et al.*, Case No. BC611563 (the "State Court Action"). In addition to the Debtor, other defendants in the State Court Action include (a) Jun Ho Yang ("J. Yang"), one of the Debtor's principals; (b) Ho Soon Yang ("H. Yang"), J. Yang's spouse and another of the Debtor's principals (collectively with J. Yang, the "Yangs"); (c) their son, Sae Hyun Yang; and (d) two other affiliated entities (collectively with the Yangs, the "State Court Co-Defendants"). The State Court Action complaint asserts various causes of action arising from the Yangs' breach of a prior lawsuit settlement agreement with

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Movant (the "Settlement Agreement"), and the Yangs' subsequent attempts to evade collection of monies claimed by Movant by fraudulently conveying real property parcels to the Debtor entity and to other affiliated entities.

*Overview of Bankruptcy Filings*

The Movant alleges that the instant case is the third bankruptcy filing in a period of four months. The State Court Action had an original trial date of August 19, 2019. The Movant describes the two prior bankruptcy petitions as follows. On August 14, 2019, five days before the August 19 trial, J. Yang commenced a voluntary bankruptcy chapter 13 case. Although J. Yang listed Movant as his only creditor, Movant asserts that J. Yang has additional creditors in light of the fact that he is currently embroiled in a separate lawsuit with his neighbors (the "Rickleby Action"). See Memorandum of Points and Authorities in Support of R/S Motion ("MPA") [Doc. No. 8] at 3. J. Yang's bankruptcy case was subsequently dismissed with prejudice with a 180-day refiling bar as he failed to file requisite commencement documents. See *id.* at 4. As set forth in an order granting Movant stay-relief, the Honorable Martin R. Barash, who presided over J. Yang's bankruptcy case, found that J. Yang had filed the chapter 13 petition in bad faith on the eve of trial in the State Court Action. See the Declaration of Mark L. Edwards, Ex. B [Doc. No. 8]. On October 13, 2019, four days before the State Court Action's continued trial date, H. Yang commenced a voluntary chapter 13. As with J. Yang's petition, H. Yang scheduled Movant as her only creditor despite the outstanding Rickleby Action, and, on or about November 25, 2019, her case was similarly dismissed with prejudice with a 180-day refiling bar. MPA at 4. Trial in the State Court Action was reset to December 3, 2019, however, the instant bankruptcy petition was filed six days before. The continued trial date for the State Court Action is unknown.

**Motion for Relief from the Automatic Stay to Prosecute Action in Nonbankruptcy Forum**

The R/S Motion sought authorization to prosecute the State Court Action against Debtor and the State Court Co-Defendants. The R/S Motion also requested *in rem* and prospective stay-relief with respect to various parcels of real property, an award of sanctions of not less than \$10,000, an award of attorneys' fees of not less than \$5,206, and asked the Court to make numerous fact findings, of which included that Debtor was a vexatious litigant. See MPA at 11-12. Citing to *Molski v.*

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*Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057-58 (9th Cir. 2007), the Movant argued that Debtor should be sanctioned as a vexatious litigant because Debtor and its principals had, by filing this petition, 1) interrupted trial proceedings in the State Court Action and 2) delayed payment of sanctions in favor of Movant in state court. *Id.* at 9-10. The Movant insisted that Debtor could also be sanctioned pursuant to 11 U.S.C. § 105 and through the Court's inherent bankruptcy powers. Additionally, Movant cited to the California Civil Code ("Cal. Civ. Code") § 1717(a) in support of its attorneys' fees request. MPA at 10. The Court understands Movant's position is that attorneys' fees are payable in this proceeding given an attorney's fee provision found in paragraph 23 of the Settlement Agreement. *Id.* at 11. After reviewing all briefs, declarations, and exhibits in support of the R/S Motion, the Court issued a tentative ruling on January 6, 2020 (the "Court's Ruling") [Doc. No. 6], which it adopted as its final ruling in a January 7, 2020 order. The Court's Ruling also granted Movant's requested relief as follows:

The Court finds that Movant has established a prima facie case that "cause" exists to grant relief from stay under § 362(d)(1). First, relief is appropriate because the causes of action in the State Court Action arise under state law and a state court would be more intimately familiar with Movant's case and applicable California law to expeditiously move the litigation to final judgment. Second, the State Court Action essentially involves the conduct of third parties, where the Debtor's involvement has been reduced to that of a conduit for the property in question.

the Last, the Court notes the recurring pattern of bankruptcy filings by Debtor and

State Court Co-Defendants. The Court finds that these bankruptcy petitions were filed for the sole purpose of interrupting trial proceedings in the State Court Action because 1) these petitions were commenced days before the trial was set to commence, 2) Movant is listed as the only creditor, or one of very few creditors, 3) few case commencement documents were submitted, and 4) each case was summarily dismissed with prejudice. *See* Memorandum of Points and Authorities at 2-4. Further reference is made to an earlier finding of bad faith reached by the bankruptcy court presiding over J. Yang's chapter 13 case. *See* Motion, Ex. B. In sum, the Debtor and the State Court Co-Defendants filed the above-referenced bankruptcy cases in bad faith, and these parties acted in concert to impair Movant's ability to prosecute the State Court

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Based on the foregoing, the Court finds it appropriate to grant extraordinary relief to prevent future bankruptcy abuses by Debtor or an affiliated party. Pursuant to the Court's inherent authority under § 105(a), this order is binding and effective for a period of 180 days in any bankruptcy case commenced by or against 1) the Debtor, 2) each of the State Court Co-Defendants, or 3) any other entity that may be formed by Debtor or a State Court Co-Defendant, so that no further automatic stay shall arise in that case as to the State Court Action. 11 U.S.C. § 105(a) ("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...prevent[ing] an abuse of process.").

Court's Ruling at 21-22. The Court denied all other relief not specifically discussed in the Court's Ruling, but permitted Movant to assert its request for attorneys' fees and sanctions by way of an order to show cause hearing.

**Order to Show Cause Re: Sanctions and Attorneys' Fees**

On January 13, 2020, the Court issued an Order Requiring Debtor to Appear and Show Cause Why It Should Not Be Sanctioned in the Amount of Movant's Reasonable Attorney's Fees For Filing a Frivolous Chapter 7 Case ("OSC") [Doc. No. 15]. The OSC required Debtor to establish why "in commencing the instant petition, it was not acting in bad faith, vexatiously, and for an improper purpose." OSC at 2. The OSC generally described Debtor's sanctionable conduct as the "commenc[ement of] this chapter 7 petition for the purpose of interrupting trial proceedings in a related state court action." *Id.* The OSC also incorporated by reference the Court's Ruling, which further described Debtor's sanctionable conduct as noted above. Moreover, the OSC permitted Movant to submit a declaration setting forth the attorney's fees incurred in addressing Debtor's bankruptcy petition and to supplement its request for sanctions. All interested parties, including the Debtor and its counsel, were given timely notice of this OSC hearing. *See* Doc. No. 16.

Movant, through its counsel, timely filed two declarations setting forth the attorneys' fees expended in responding to this bankruptcy proceeding. In addition, Movant incorporated into its response those declarations proffered in support of the

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R/S Motion [Doc. No. 8]. In response to this bankruptcy case, Movant spent a total of 15.7 hours and incurred, or will incur, total fees of \$7,057.70. The average hourly billing rate was \$393.75.

As of the preparation of this tentative ruling, the Debtor has not filed any response in compliance with the January 13, 2020 order.

## II. Findings and Conclusions

### A. Monetary Sanctions under 11 U.S.C. § 105(a)

Section 105(a) provides:

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 or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

This section has been recognized as endowing bankruptcy courts with the inherent power to award sanctions "against a party who willfully disobeys a court order or acts in bad faith, 'which includes a broad range of willful improper conduct.' To impose inherent power sanctions, a court must find that a party acted 'in bad faith, vexatiously, wantonly, or for oppressive reasons.'" *Miller v. Cardinale (In re Deville)*, 280 B.R. 483, 495-96 (B.A.P. 9th Cir. 2002) *aff'd sub nom. In re Deville*, 361 F.3d 539 (9th Cir. 2004). A finding of bad faith is warranted where a litigant "knowingly or recklessly raises a frivolous argument." *Primus Auto. Fin. Servs., Inc. v. Batarse*, 115 F.3d 644, 648-49 (9th Cir. 1997).

Sanctions imposed pursuant to the Bankruptcy Court's inherent power must be compensatory, not punitive. *Id.* at 497-98. "[A] court may sanction pursuant to its inherent authority even when the same conduct may be punished under another sanctioning statute or rule." *Id.* at 496. The Bankruptcy Court's inherent sanctioning authority "is not displaced by the federal statutes and rules. It is broader than Rule 9011 sanctions and 'extends to a full range of litigation abuses.'" *Id.* (internal citations omitted). Inherent authority sanctions have been imposed against a litigant who filed

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a series of bankruptcy petitions and notices of removal of a state court action to the bankruptcy court to delay a state court trial and to increase the opposing side's litigation costs. *In re Deville*, 280 B.R. at 494–96. Sanctions were also awarded against a litigant who filed objections to gain a tactical advantage in a case pending before a different court. *In re Intel Securities Litigation*, 791 F.2d 672, 675 (9th Cir. 1986).

Here, the Debtor, acting through its principal, H. Yang, commenced this chapter 7 case in the eve of a twice-delayed trial in state court. Considering the two bankruptcy filings by the Yangs, the Court reaffirms that the Debtor acted in bad faith by commencing this petition to delay trial proceedings in the State Court Action for a third time. It is evident that the Debtor did not intend to seek chapter 7 relief: the Debtor only identified Movant as its only creditor, only submitted schedules C, I, and J, did not make any attempts to extend filing deadlines, and its case was summarily dismissed approximately two weeks after the Petition Date. The Debtor has, in fact, made no effort to oppose Movant's stay-relief motion or comply with this OSC. Debtor's wrongful conduct consisted of complicity with the Yangs to initiate bankruptcy proceedings to strategically delay trial proceedings, impair Movant's ability to foreclose on real property, as well as increase Movant's legal expenses. The Debtor's actions, along with those of the Yangs, demonstrate attempts to manipulate the bankruptcy system for the purpose of frustrating the State Court Action trial. The Court deems this conduct sanctionable. Accordingly, the Court determines that Debtor must pay an award of sanctions to compensate Movant for its reasonable attorneys' fees and costs as set forth below.

On balance, the Court further finds that Movant's request for attorneys' fees in the amount of \$ 7,057.70 is excessive. Movant's activity in this case began the same day Debtor's case was dismissed, and it is essentially limited to the time spent preparing and filing one unopposed stay-relief motion and a four-page declaration concerning attorneys' fees with accompanying billing statements, which has not been—and will likely not be—contested by the Debtor. For instance, the Movant anticipates incurring a total of \$1,235 in attorneys' fees through the date of the OSC, of which \$800 are allocated for preparing the OSC response and \$435 for making a telephonic court appearance on the hearing date. As the Debtor failed to respond to the OSC, the effort expended on the OSC response did not need to be substantial; nor does the Court believe that a lengthy hearing, if any, is necessary. In addition, the Court notes that Movant's counsel collectively billed approximately 10.6 hours for work on the

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Edwards Declaration and the MPA in support of the R/S Motion, and for which Movant now requests approximately \$3,435. Having reviewed the record, and the extent of Movant's participation in this matter, the Court determines that an award of attorneys' fees of \$5,000 is more in line with Movant's efforts. In sum, the Movant is entitled to an award of sanctions in the sum of \$5,000 for reasonable attorneys' fees and costs.

**B. Attorney's Fees under Cal. Civ. Code § 1717(a)**

The Movant separately seeks an award of attorneys' fees pursuant to Cal. Civ. Code § 1717(a). The Settlement Agreement provides with respect to attorney's fees:

or  
costs shall party.  
In the event that any party brings a proceeding, including any civil action arbitration to construe or enforce any of the terms or provisions of this Agreement, including the obtaining of any injunctive relief, the prevailing party in a proceeding shall be entitled to recover actual attorneys' fees, and expenses reasonably incurred in said proceeding. Prevailing party shall mean the party that obtained a net monetary judgment or the party that successfully defended and resisted the claim for relief of the other party.

MPA at 11. Cal. Civ. Code § 1717(a) provides in relevant part:

In any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce that contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the party prevailing on the contract, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees in addition to other costs.

Cal. Civ. Code § 1717(a) applies only to attorney's fees incurred in actions involving a contract claim. *Santisas v. Goodin*, 17 Cal.4th 599, 71 Cal.Rptr.2d 830, 951 P.2d 399 (1998) (internal citations omitted). Under California law, "an action is 'on a contract' when a party seeks to enforce, or avoid enforcement of, the provisions of the contract." *Penrod v. AmeriCredit Fin. Svcs., Inc. (In re Penrod)*, 802 F.3d 1084, 1087 (9th Cir. 2015) (internal citations omitted). However, "stay relief proceedings are not

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actions ‘on a contract’ to which California law should be applied." *In re Johnson*, 756 F.2d 738, 740 (9th Cir. 1985) (internal citations omitted); *Travelers Cas. & Sur. Co. of America v. Pacific Gas and Elec. Co.*, 549 U.S. 443, 452, 127 S.Ct. 1199 (2007) (noting that the attorneys’ fees discussed in *In re Johnson* were denied as the request had "failed as a matter of state law"); *see In re Coast Trading Co.*, 744 F.2d 686, 693 (9th Cir. 1984) ("the question of the applicability of the bankruptcy laws to particular contracts is not a question of the enforceability of a contract but rather involves a unique, separate area of federal law"); *see also Bos v. Board of Trustees*, 818 F.3d 486, 490 (9th Cir. 2016) (citing to *In re Johnson* favorably).

Here, the R/S Motion, brought forth under § 362(d), is not an action on the Settlement Agreement within the meaning of Cal. Civ. Code § 1717(a). The R/S Motion sought authorization for Movant to prosecute the State Court Action against the Debtor and the State Court Co-Defendants. The question of whether the Settlement Agreement was valid or enforceable was not an issue that the Court had to consider in adjudicating the R/S Motion. Moreover, in its ruling, the Court noted that the issue concerning the enforceability of the Settlement Agreement was part of the State Court Action, and that the state court was better suited to "expeditiously" adjudicate such issue which "[arose] under state law." Court’s Ruling at 20. In short, the enforceability or validity of the Settlement Agreement was not adjudicated by way of the R/S Motion.

Therefore, the R/S Motion is not an action on a contract and the Movant is not entitled to an award of attorneys’ fees under Cal. Civ. Code § 1717(a).

### **III. Conclusion**

Based on the foregoing, the Movant’s request for sanctions is GRANTED in part in the amount of \$5,000 pursuant to 11 U.S.C. § 105(a).

The Movant shall submit a conforming order within seven days of the hearing. The order shall provide that this case will be closed 30 days after entry of the order without further notice or hearing.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel



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**CONT... Sella Care, Inc.**

**Chapter 7**

Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Sella Care, Inc.

Represented By  
Young K Chang

**Trustee(s):**

Elissa Miller (TR)

Pro Se

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2:18-17353 Maria G Gallarza-Dominguez

Chapter 11

#12.00 Post confirmation status conference

fr. 11-5-19; 2-12-19

Docket 98

**Tentative Ruling:**

2/18/2020

For the reasons set forth below, a continued Post-Confirmation Status Conference shall take place on **June 30, 2020, at 10:00 a.m.**

**Pleadings Filed and Reviewed:**

- 1) Debtors-In-Possession's Post Confirmation Report on Status of Reorganization [sic] [Doc. No. 117]

**I. Facts and Summary of Pleadings**

On November 14, 2019, the Court entered an *Order Confirming Debtor's Chapter 11 Plan of Reorganization* [Doc. No. 103] (the "Confirmation Order"). This is the first Post-Confirmation Status Conference. Debtor states that she is current on all payments required under the Plan, and foresees that she will continue making payments without issue. Debtor anticipates filing a motion for a final decree on or before March 1, 2020.

**II. Findings and Conclusions**

No appearances required. A continued Post-Confirmation Status Conference shall be held **June 30, 2020, at 10:00 a.m.** A Post-Confirmation Status Report must be submitted by no later than fourteen days prior to the hearing. Debtor shall file and serve a motion for a final decree such that the motion is heard prior to the date of the continued Status Conference. If a favorable order on the motion for a final decree is entered, the continued Status Conference will go off calendar.

The Debtor shall submit an order setting the continued Status Conference within seven days of the hearing.

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**CONT... Maria G Gallarza-Dominguez**

**Chapter 11**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Maria G Gallarza-Dominguez

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

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**2:16-16496 JW Wireless Inc.**

**Chapter 7**

**#13.00** Hearing re [49] Objection to Claim #2 by Claimant Atlantic Wireless, Inc.. in the amount of \$ 2,000,000.00 Filed by Creditor Lea Young Lee

fr: 4-17-19; FR. 9-25-19

fr. 2-12-20

Docket 0

**Tentative Ruling:**

2/18/2020

The Claim Objectors formally withdrew their objections [Doc. Nos. 98 and 99], however the withdrawal notices do not comply with LBR 9013(k) and FRBP 7041(a), which provides that where parties have responded to a motion, the motion may only be voluntarily dismissed by way of a stipulation signed by all responding parties. Here, both the claimant and the trustee responded to the objections. No stipulation has been filed.

For the reasons set forth below, the Claim Objections are **OVERRULED**, in full, and the Atlantic Claim will be **ALLOWED** in its entirety.

**Pleadings Filed and Reviewed**

1. Objection by Debtor JW Wireless, Inc. and Parties in Interest JW Wireless OKC LLC, BJ Mobile, Inc., Shiang An Ben Her, Joan Yu, and Chu Feng Yu, to Proof of Claim No. 2-1 of Atlantic Wireless, Inc. [Doc. No. 43] (the "Atlantic Claim Objection")
2. Notice of Objection to Claim Objection [Doc. No. 43]
3. Opposition to Objection by Debtor JW Wireless, Inc. and Parties in Interest JW Wireless OKC LLC, BJ Mobile, Inc., Shiang An Ben Her, Joan Yu, and Chu Feng

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**JW Wireless Inc.**

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- Yu, to Proof of Claim No. 2-1 of Atlantic Wireless, Inc. [Doc. No. 46] (the "Opposition to Atlantic Claim Objection")
4. Response to Opposition to Objection by Debtor JW Wireless, Inc. and Parties in Interest JW Wireless OKC LLC, BJ Mobile, Inc., Shiang An Ben Her, Joan Yu, and Chu Feng Yu, to Proof of Claim No. 2-1 of Atlantic Wireless, Inc. [Doc. No. 47] (the "Trustee's Response to Atlantic Claim Objection")
  5. Reply in Support of Objection by Debtor JW Wireless, Inc. and Parties in Interest JW Wireless OKC LLC, BJ Mobile, Inc., Shiang An Ben Her, Joan Yu, and Chu Feng Yu, to Proof of Claim No. 2-1 of Atlantic Wireless, Inc. [Doc. No. 48] (the "Reply to Atlantic Claim Objection")
  6. Stipulation to Continue Hearing on Objection to Claim No. 2-1 of Atlantic Wireless, Inc. [Doc. No. 52]
  7. Order Approving Stipulation to Continue Hearing on Objection to Claim No. 2-1 of Atlantic Wireless, Inc. [Doc. No. 53]
  8. Jetworld, Inc., Jetstar Auto Sports, Inc. and Lea Young Lee's Objection to Claim No. 2-1 filed by Atlantic Wireless, Inc. [Doc. No. 49] (the "Second Atlantic Claim Objection")
  9. Notice of Second Atlantic Claim Objection [Doc. No. 50]
  10. Opposition to Jetworld, Inc., Jetstar Auto Sports, Inc. and Lea Young Lee's Objection to Claim No. 2-1 filed by Atlantic Wireless, Inc. [Doc. No. 55] (the "Opposition to Second Atlantic Claim Objection")
  11. Jetworld, Inc., Jetstart Auto Sports, Inc. and Lea young Lee's Reply in Support of Objection to Atlantic Wireless, Inc. Claim No. 2-1 [Doc. No. 56] (the "Reply to Second Atlantic Claim Objection")
  12. Jetworld, Inc., Jetstart Auto Sports, Inc. and Lea young Lee's Notice of Errata Regarding Missing Caption on its Reply in Support of Objection to Atlantic Wireless, Inc. Claim No. 2-1 [Doc. No. 57]
  13. Status Report by Trustee Re: Objection by Debtor JW Wireless OKC LLC, BJ Mobile, Inc., Shiang An Ben Her, Joan Yu, and Chu Feng Yu, to Proof of Claim No. 2-1 of Atlantic Wireless, Inc. [Doc. No. 92] (the "Status Report")

## **I. Facts and Summary of Pleadings**

### **A. Relevant Background Facts**

JW Wireless, Inc. (the "Debtor") filed this voluntary chapter 7 case on May 17, 2016 (the "Petition Date"). John J. Menchaca is the acting chapter 7 trustee (the

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**Chapter 7**

"Trustee"). On June 10, 2016, the Trustee filed a *Notice of Possible Dividend and Order Fixing Time to File Claim* [Doc. No. 6-1] (the "Notice of Claims Bar Date"), which set a deadline of November 14, 2016 (the "Claims Bar Date"), for creditors to file proofs of claim.

On September 12, 2016, Atlantic Wireless, Inc. ("Atlantic") filed a timely Proof of Claim No. 2 (the "Atlantic Claim") asserting a claim for \$2,000,000 based upon the "[f]ailure of Debtor's affiliate to pay for assets acquired." *See* Atlantic Claim. Atlantic also attached an addendum describing the circumstances that provide the basis for its claim. *Id.*

**B. The Avoidance Action**

On April 10, 2018, the Trustee initiated an adversary proceeding by filing a complaint against Cellco Partnership dba Verizon Wireless, a Delaware limited partnership ("Verizon"), BJ Mobile, Inc., a California corporation ("BJ Mobile"), Jetworld, Inc., a California corporation ("Jetworld"), JW Wireless OKC, an Oklahoma limited liability company ("JW OKC"), JWK Management, Inc., a California corporation, Jetstar Auto Sports, Inc, a California corporation ("Jetstar"), Shaigan Ben Her ("Ben Her"), Lea Young Lee ("Lee"), Joan Yu ("J. Yu"), Chu Feng Yu ("C.F. Yu"), and Carolyn Rhyoo (collectively, with the exception of Verizon, the "Non-Verizon Defendants") seeking to avoid and recover preferential and fraudulent transfers (the "Avoidance Action") (Adv. Case No. 2:18-ap-01097-ER).

At a mediation held on August 23, 2019, the Trustee reached a compromise with the Non-Verizon Defendants, providing for the settlement of Avoidance Action in exchange of payments totaling \$125,000. The Trustee subsequently entered into a settlement agreement with Verizon for an additional \$125,000 payment to the estate. The Court entered orders approving the settlement agreements with both Verizon and the Non-Verizon Defendants on November 22 [Doc. No. 78] and December 16, 2019 [Doc. No. 82], respectively.

**C. The Atlantic Claim Objections [Note 1]**

On February 18, 2019, the Debtor, JW OKC, BJ Mobile, Ben Her, J. Yu, and C.F. Yu (together, the "First Objecting Parties") filed an objection to the Atlantic Claim

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**JW Wireless Inc.**

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[Doc. No. 43] (the "Atlantic Claim Objection"). On March 15, 2019, Jetworld, Jetstar, and Lee (together with the First Objecting Parties, the "Objectors") also filed an objection to the Atlantic Claim [Doc. No. 49] (the "Second Atlantic Claim Objection," and together with the Atlantic Claim Objection, the "Claim Objections") asserting substantially similar arguments as those set forth in the Atlantic Claim Objection. Atlantic filed a timely opposition to the Claim Objections [Doc. Nos. 46 & 55]. The Objectors filed timely replies in support of their Claim Objections [Doc. Nos. 48 & 56]. The Court herein incorporates by reference its general overview of all pleadings germane to the Claim Objections set forth in its final rulings [Doc. Nos. 58 & 59] (the "Court's Rulings") dated April 17, 2019.

**D. The Trustee's Latest Status Report**

The Claim Objections were initially set to be heard on April 18, 2019, but then continued to September 25, 2019 for reasons explained in the Court's Rulings. The hearing was continued yet again to February 12, 2020 pursuant to the parties' stipulation [Doc. No. 63]. In anticipation of the February 12, 2020 hearing, the Trustee submitted a status report (the "Status Report") briefing the Court on the Avoidance Action and the Claim Objections. The Status Report states that although the estate received settlement proceeds in the amount of \$250,000 (the "Settlement Proceeds"), the Debtor will likely not receive any surplus funds following the final distribution of assets. In fact, the Settlement Proceeds will be insufficient to satisfy administrative expenses and creditor claims (excluding the Atlantic Claim). The Trustee reiterates that the Avoidance Action will be dismissed with prejudice once the Settlement Proceeds are paid. In sum, the Trustee claims that he is "not aware of any basis on which [the Objectors] might have standing to maintain their objection to the [Atlantic Claim]." Status Report at 2.

As of the preparation of this tentative ruling, no party has filed a response to the Status Report.

**II. Findings of Fact and Conclusions of Law**

**A. The Objectors Did Not Establish Standing to Object to the Atlantic Claim**

A timely filed proof of claim is deemed allowed unless a party in interest objects.

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11 U.S.C. § 502(a). The term "party in interest" is not defined in the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, but courts have held that standing in a bankruptcy context requires an "aggrieved person" who is directly and adversely affected pecuniarily by an order of the bankruptcy court. *In re Lona*, 393 B.R. 1, 3 (Bankr. N.D. Cal. 2008) (citing *Fondiller v. Robertson (In re Fondiller)*, 707 F.2d 441, 442-43 (9th Cir. 1983)).

**1. The Debtor Does Not Have Standing**

Generally, a chapter 7 debtor does not have standing to object to claims because the debtor has no interest in the distribution of assets of the estate and, therefore, is not an "aggrieved person." *Lona*, 393 B.R. at 4; *see also In re I & F Corp.*, 219 B.R. 483 (Bankr. S.D. Ohio 1998) (chapter 7 debtor-corporation lacks standing to file objections to proofs of claim). The Ninth Circuit Bankruptcy Appellant Panel recently reaffirmed this conclusion:

In the claim objection context, a chapter 7 debtor, 'in its individual capacity, lacks standing to object unless it demonstrates that it would be 'injured in fact' by the allowance of the claim.' In the case of a corporation, this includes its officers, directors, and agents. So when the 'estate is insolvent, a chapter 7 debtor ordinarily lacks standing to object to proofs of claim.' But when 'there is a sufficient possibility of a surplus to give the chapter 7 debtor a pecuniary interest or when the claim involved will not be discharged...' the chapter 7 debtor has standing.

*In re Doorman Prop. Maint.*, 2018 WL 3041128, at \*6 (B.A.P. 9th Cir. June 19, 2018) (internal citations omitted). The burden is on the debtor to provide sufficient evidence that disallowance of the contested claim will produce a surplus distribution to the debtor. *In re Walker*, 356 B.R. 834, 847 (Bankr. S.D. Fla. 2006) (citing *In re Cult Awareness Network, Inc.*, 151 F.3d 605, 608 (7th Cir. 1998)).

The Debtor previously asserted that it had standing to object to the Atlantic Claim because such claim's allowance or disallowance would affect Debtor's rights in the event this case resulted in a surplus. Although the Trustee was able to recover \$250,000 for the benefit of the estate, allowed claims and administrative expenses are



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**JW Wireless Inc.**

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anticipated to total north of \$273,000, even excluding the Atlantic Claim. *See* Claims Register. In addition, no other administrable assets have been identified. The Court finds it highly unlikely that this will be a surplus case, and in short, the Debtor has not established standing to assert its claim objection.

**2. JW OKC, the Only Creditor to File a Proof of Claim, Did Not Establish Standing to Object to the Atlantic Claim**

On April 17, 2019, the Court issued a ruling concerning JW OKC's standing to object to the Atlantic Claim. The Court held:

The Objectors have not demonstrated that they have standing to object to the Atlantic Claim. Pursuant to Bankruptcy Rule 3002(a), a "secured creditor, unsecured creditor, or equity security holder must file a proof of claim or interest for the claim or interest to be allowed . . ." Fed. R. Bankr. P. 3002(a). In this case, only JW OKC filed a proof of claim. Therefore, it is the only creditor with a potential pecuniary interest that might be affected by disallowance of the Atlantic Claim. However, it is premature for the Court to determine JW OKC's standing because JW OKC's claim may be disallowed pursuant to § 502(d) if the Trustee succeeds against it in the Avoidance Action and JW OKC fails to comply with any turnover obligations.

Additionally, even if the Court were to find that JW OKC has an allowed general unsecured claim, "[t]he majority of courts have ruled that, in cases where there is a bankruptcy trustee, general unsecured creditors do not have standing to object to claims of other creditors, unless the trustee has refused after request to object to the claim, and the court has then authorized the creditor to object." *T. Jones, Inc., v. Simmons (In re Simmons)*, 2005 Bankr. Lexis 2954, at \*9 (B.A. P. 9th Cir. Mar. 31, 2005). JW OKC does not argue that the Trustee has refused after its request to object to the Atlantic Claim and the Court has not authorized JW OKC to file an objection on its own behalf.

Even if the Court were to consider the Trustee's e-mail response to the Objectors' counsel, the Court concludes that the Trustee did not unambiguously refuse to object. Instead, the Trustee responded that he was "not inclined to file an objection to the Atlantic Wireless claim *at this time*."

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**JW Wireless Inc.**

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*See* Second Atlantic Claim Objection, Jackson Decl., Ex. B (emphasis added). The Trustee's response is not a refusal to act, but rather an understandable reservation of rights given that the estate is presently insolvent and even a successful objection would not benefit creditors unless assets are recovered.

Court's Final Ruling [Doc. No. 59] at 27.

As of the preparation of this tentative ruling, JW OKC has not responded to the points the Court raised nearly ten months ago, nor did it supplement its previous contentions. Therefore, the Court considers JW OKC's silence as a concession of the issues referenced above and as consent to the Court's authority to enter a final order overruling its objection pursuant to Local Bankruptcy Rule 9013-1(c)(5). Additionally, the Court reaffirms its prior findings with respect to the other Objectors.

In conclusion, the Objectors did not establish standing to object to the Atlantic Claim.

The Court notes that on February 17, 2020, the Objectors filed a notice of withdrawal of the Atlantic Claim Objection and the Second Atlantic Claim Objection [Doc. No. 98 and Doc. No. 99 respectively] [**Note 2**].

### **III. Conclusion**

Based on the foregoing, the Claim Objections are **OVERRULED**, in full, and the Atlantic Claim will be **ALLOWED** in its entirety.

The Court will prepare an order that incorporates this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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**CONT... JW Wireless Inc.**

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**Note 1:** Because the Court finds that the Objectors lack standing to object to the Atlantic Claim, the Court has not included a summary of the parties' substantive arguments.

**Note 2:** Notwithstanding the Objectors' withdrawal notices, the Court will issue the findings and conclusions reached in this tentative ruling. Local Bankruptcy Rule 9013-1(k) provides that the voluntary dismissal of a motion is subject to Bankruptcy Rule 7041(a). Under Bankruptcy Rule 7041(a), where parties have responded to a motion, the motion may be voluntarily dismissed only upon a stipulation of dismissal signed by all parties who have responded. Here, both Atlantic and the Trustee responded to the Claim Objections and have not stipulated to the voluntary dismissal of either objection. Therefore, the Objectors' purported notice of withdrawal is ineffective.

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

**Debtor(s):**

JW Wireless Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Robert P Goe  
Thomas J Eastmond

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**2:16-16496 JW Wireless Inc.**

**Chapter 7**

**#14.00** Hearing re [43] Objection to Claim #2 by Claimant Atlantic Wireless, Inc.. in the amount of \$ \$2,000,000.00

fr: 3-20-19; 4-17-19;l FR. 9-25-19

fr. 2-12-20

Docket 0

**Tentative Ruling:**

2/18/2020

See Cal. No. 13, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

JW Wireless Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Robert P Goe

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**2:18-10616 Manuel Macias**

**Chapter 7**

Adv#: 2:19-01128 Krasnoff, Chapter 7 Trustee v. Estrada et al

**#100.00** Hearing  
RE: [43] Motion to set aside RE: Entry of defaults against Janet Estrada and Steven Molina

FR. 11-5-19

fr. 1-7-20

Docket 43

**Tentative Ruling:**

2/18/2020

Order entered. Hearing **VACATED**.

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

**Debtor(s):**

Manuel Macias

Represented By  
Jennifer Ann Aragon - SUSPENDED -

**Defendant(s):**

Janet Estrada

Represented By  
Todd L Turoci

Steven Molina

Represented By  
Todd L Turoci

**Plaintiff(s):**

Brad D. Krasnoff, Chapter 7 Trustee

Represented By  
Michael G D'Alba

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By

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**CONT...**

**Manuel Macias**

Eric P Israel

**Chapter 7**

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**2:18-10616 Manuel Macias**

**Chapter 7**

Adv#: 2:19-01128 Krasnoff, Chapter 7 Trustee v. Estrada et al

**#101.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01128. Complaint by Brad D. Krasnoff, Chapter 7 Trustee against Janet Estrada, Steven Molina. (Charge To Estate). -Complaint to Avoid Voidable Transactions and for Turnover Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)) (D'Alba, Michael)

fr. 7-16-19; 10-15-19; 11-5-19

fr. 1-7-20

Docket 1

**Tentative Ruling:**

2/18/2020

Order entered. Hearing **VACATED**.

**Party Information**

**Debtor(s):**

Manuel Macias

Represented By

Jennifer Ann Aragon - SUSPENDED -

**Defendant(s):**

Janet Estrada

Pro Se

Steven Molina

Pro Se

**Plaintiff(s):**

Brad D. Krasnoff, Chapter 7 Trustee

Represented By

Michael G D'Alba

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**CONT... Manuel Macias**

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**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel



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**2:18-15865 Fatemeh V. Mahdavi**

**Chapter 7**

**#102.00** Status conference to address the dispute concerning the IRSs entitlement to funds originally earmarked for the Debtors homestead exemption, and any developments thereof

fr. 9-25-19; 12-15-19

Docket 86

**Tentative Ruling:**

2/18/2020

No stipulation to resolve the matter or to continue this hearing is on file as of the date of this tentative ruling. Hearing required.

**Party Information**

**Debtor(s):**

Fatemeh V. Mahdavi

Represented By  
David R Hagen

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Eric P Israel  
Michael G D'Alba

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**2:19-21593 C & F Sturm, LLC**

**Chapter 11**

**#103.00** HearingRE: [30] Motion for approval of chapter 11 disclosure statement Declaration of Christina De Musee

Docket 30

**Tentative Ruling:**

2/18/2020

For the reasons set forth below, the Court finds that the Plan described in the Disclosure Statement cannot be confirmed. Therefore, the Court declines to approve the Disclosure Statement. The Debtor is directed to file an amended disclosure statement and an amended plan by no later than **March 20, 2020** and self-calendar a hearing for **April 15, 2020 at 10:00 a.m.**

**Pleadings Filed and Reviewed**

1. Disclosure Statement Describing Chapter 11 Plan of Liquidation [Doc. No. 28] (the "Disclosure Statement")
2. Debtor's Plan of Liquidation [Doc. No. 29] (the "Plan")
3. Motion for Approval of Adequacy of Disclosure Statement Describing Chapter 11 Plan of Liquidation [Doc. No. 30] (the "Motion")
4. Notice of Motion [Doc. No. 31]
  5. Palco Promotions, Inc.'s Objection to Employment Application and Request for Hearing [Doc. No. 14]
6. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Debtor-in-possession, C & F Sturm, LLC (the "Debtor"), filed this voluntary chapter 11 case on October 1, 2019 (the "Petition Date"). The Debtor is managed and fully owned by Christina De Musee ("Musee"). The Debtor's only asset consists of real property located at 511 and 515 Las Vegas Boulevard South, Las Vegas, Nevada (the "Property").

On July 3, 2012, the Debtor entered into a settlement agreement with Palco

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Promotions, Inc. ("Palco"), one of its current unsecured creditors (the "Settlement Agreement"). Disclosure Statement at 9. The distributions sought to be provided under the Debtor's chapter 11 plan are largely subject to the terms of the Settlement Agreement. As stated in the Disclosure Statement, the Settlement Agreement provides that the Property would be sold for \$2,100,000 (the "Initial Purchase Price"), and it assigned Debtor and Palco the joint responsibility of marketing the Property. Disclosure Statement at 9. The Debtor claims that Palco never fulfilled its contractual obligation to market the Property, defrayed Musee's maintenance expenses with respect to the Property, and it consistently rejected any third-party offers to purchase the Property for less than the Initial Purchase Price. *Id.* Since the Settlement Agreement was executed, the Debtor alleges that Musee has personally contributed funds in excess of \$150,000 for the Property's taxes, insurance, and maintenance costs. *Id.* These ongoing outlays have placed a significant burden on Musee's finances, leading to the filing of this bankruptcy petition.

As described in the Disclosure Statement, the Debtor's general plan is to sell the Property for \$1,795,000 (the "Listing Price"), and to then use sale proceeds to fully pay those creditors holding allowed claims. It is the Debtor's position that the Initial Purchase Price is not mandatory because 1) the Settlement Agreement contemplates for a lower purchase price, 2) no buyer has been willing to purchase the Property at the Initial Purchase Price, or a greater sum, and 3) Musee can no longer subsidize an asset valued at pre-recession market rates. Disclosure Statement at 9. To accomplish the sale of the Property, the Debtor has retained, or will retain, the services of a bankruptcy counsel, a real estate broker, and an accountant. *Id.* at 10. On October 24, 2019, Palco filed an objection to the employment application of Debtor's real estate broker [Doc. No. 14] (the "Objection"). The Objection failed to assert a convincing challenge against the application, but instead contended that the petition had been filed in bad faith as the Property's Listing Price violates the terms of the Settlement Agreement. Declaration of Louis Palazzo ("Palazzo Decl."), ¶¶ 3-6 [Doc. No. 14]. On November 21, 2019, the Court overruled the Objection and granted the employment application [Doc. No. 25].

The Debtor presently seeks an order approving the adequacy of its Disclosure Statement. The Disclosure Statement details the events discussed above which led to this bankruptcy filing and provides a description of significant post-petition events. The Debtor proposes a liquidation plan (the "Plan") that will be entirely funded by the

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proceeds generated from the liquidation of the Property (the "Sale Proceeds"). The Debtor submits that the Sale Proceeds will be sufficient to pay, in full, administrative fees, capital gains taxes, costs of sale, and all classes of claims.

The Plan proposes the following classification scheme and treatments:

*Administrative Claims*

The Debtor anticipates that administrative fees for professionals will be approximately \$147,700, of which \$30,000 will be sought by Debtor's counsel, \$10,000 by Debtor's accountant, and \$107,000 by the real estate broker (based on the Listing Price). The Debtor proposes to pay all administrative claims, in full, upon the sale of the Property, from proceeds generated by the sale. In addition, quarterly fees owed to the United States Trustee, approximately totaling \$18,275, will be paid in full when the Property is sold.

*Priority Tax Claims*

The Franchise Tax Board ("FTB") and the Clark County Treasurer ("Clark County") hold priority tax claims against the Debtor. The Debtor proposes to pay FTB's claim of \$1,645.13, as well as Clark County's claim of \$16,000, in full, in a lump sum payment "after the sale" of the Property.

*Class 3 – Secured Claim of Unidentified Judgment Creditor*

The Plan provides that Class 3 consists of a judgment creditor. Debtor has not identified this creditor or the total value of such creditor's claim. The Debtor proposes to pay this unnamed creditor, in full, from the Sale Proceeds. The Debtor states that this class is unimpaired and not entitled to vote on the Plan.

*Class 6 – General Unsecured Claims*

Class 6 consists of all allowed general unsecured claims, including Palco's claim, which the Debtor estimates hold aggregate claims in the amount of \$349,972. See Disclosure Statement, Ex. B. Pursuant to the Plan, Palco's unsecured claim will be entirely determined in reference to a calculation set forth in the Settlement Agreement. Accordingly, assuming that the Property is sold for the Listing Price of \$1,795,000, the Settlement Agreement provides that Palco would be entitled to 50% of any sales proceeds in excess of \$1,400,000, which according to the Debtor, amounts to a \$185,653 payout, net of pro-rata sale costs and professional fees. See Disclosure, Ex.

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A [Liquidation Analysis]. The Debtor proposes to pay Class 6, in full, from the Sale Proceeds. The Debtor states that this class is unimpaired and not entitled to vote on the Plan.

*Class 8 – Musee’s Insider Claim*

This class consists of Musee’s claim to the remaining balance of the Sale Proceeds, after all other claims have been satisfied. Musee is an insider. According to the Debtor, Musee’s claim is impaired, but because she authorized the Plan, she will not vote against it.

*Means of Implementation*

The Debtor’s Plan will be wholly funded from the Sale Proceeds, upon the sale of the Property at the Listing Price.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

### **The Debtor’s Plan is Not Confirmable**

The Court generally does not consider plan confirmation issues at the disclosure statement phase. However, it is "well accepted that a court may disapprove of a disclosure statement, even if it provides adequate information about a proposed plan, if the plan could not possibly be confirmed." *In re Main St. AC, Inc.*, 234 B.R. 771, 775 (Bankr. N.D. Cal. 1999). This is because "it would be a waste of resources" to approve a disclosure statement describing a nonconfirmable plan. *In re Silberkraus*, 253 B.R. 890, 899 (Bankr. C.D. Cal. 2000), *subsequently aff’d*, 336 F.3d 864 (9th Cir. 2003).

The Court cannot approve the Disclosure Statement because the Plan, in its present form, cannot be confirmed for the following reasons:

*The Plan is internally inconsistent*

The Plan is fatally ambiguous and/or internally inconsistent. Put simply, the Plan provides for deadlines—i.e., the Distribution Date and the Effective Date—that trigger incompatible outcomes. The Plan defines the "Distribution Date" as "the [b]usiness date on which [c]ash will be distributed to the [h]olders of [a]llowed [c]

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claims...or as soon as practicable thereafter" (the "Distribution Date"). Plan at 6. The Plan aims to set the effective date as June 1, 2020, which is defined as the earlier of (a) thirty (30) days following the date of entry of the confirmation order, or (b) the date on which the stay on the confirmation order has been lifted (the "Effective Date"). *See id.*

For instance, Article 6.1 of the Plan presupposes that the Effective Date and the Distribution Date will be contemporaneous, and that the Plan will be funded by the Effective Date. Plan at 14 ("The Cash paid on the Effective Date will pay 100% of Unsecured Claims."). This is a problem because the Debtor cannot be certain that the Property will be sold *before* the Effective Date, enabling the payment of the Sale Proceeds on the Effective Date. This issue is exacerbated by the post-confirmation provisions of Article 7. Namely, Article 7.3 states that the Debtor "shall no longer exist after [the Distribution Date]," while Article 7.5 provides that "[a]fter the Effective Date the Debtor shall cease to exist." *Compare* Plan at 15, *with id.* at 16. Because the Distribution Date and the Effective Date are not guaranteed to coincide, it is unclear what event will trigger the Debtor's dissolution. Furthermore, Article 7.2 states that "all the property of the estate" will vest in the Debtor "[o]n the Effective Date." The same article entitles the Debtor to "operate," "use," "acquire," and "dispose" of "property" "[f]rom and after the Effective Date." Plan at 14. The Plan does not expressly provide for the creation of a liquidating trust, so the Court is mystified as to which entity or person will oversee the property of the estate if the Debtor's dissolution is triggered as of the Effective Date. Similarly, Article 7.6 contemplates that the Debtor itself will petition for a final decree "[o]nce the Plan has been substantially consummated," which is at odds with the dissolution triggered by either Articles 7.3 or 7.5. The Debtor must describe, in detail, the procedures and timeline concerning its dissolution, and specifically identify which entity or person will assume the Debtor's rights and responsibilities under the Plan.

*The Plan is in conflict with 11 U.S.C. § 1142*

The Plan may be construed as impairing the Court's authority to ensure its implementation pursuant to § 1142. Article 7.2 reads in relevant part: "From and after the Effective Date, the Debtor may operate and may use, acquire, and dispose of property, and compromise and settle any claims...without supervision or consent of the Bankruptcy Court, free from any restrictions by the Bankruptcy Code and Bankruptcy Rules." Because Debtor will not receive a discharge until the Plan is fully

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consummated (*see* Article 7.1), this provision would effectively prohibit the Court from adjudicating any issues that may arise between the Effective Date and the Distribution Date, which is in turn contingent on the successful sale of the Property.

*Disclosures concerning the sale of the Property are woefully deficient*

The Plan contemplates that the Property will be sold, but otherwise it neglects to describe any procedures governing the sale. As a result, it is not clear when the Property will be sold, or if the Debtor will modify the Property's purchase price to increase its marketability. Given that the Plan will be entirely funded through the Property's sale, the Plan should contain specific information regarding the sale of the Property.

*Palco's classification as an unimpaired creditor is erroneous*

The Plan improperly classifies Palco as an unimpaired claimant. The Debtor believes that the Plan does not alter the rights available to Palco under the Settlement Agreement, and as such, the general unsecured class is not impaired and not entitled to vote on the Plan. Debtor's position is incorrect. Pursuant to the Settlement Agreement, the Property's original purchase price of \$2,600,000 was lowered to \$2,100,000 by agreement of Palco and the Debtor. *See* Doc. No. 14-1 [the Settlement Agreement] at 2, Article II, section 1, subsection (b) ("Based upon the changes in real estate market conditions, the Parties have agreed to reduce the [original purchase price] to \$2,100,000 without any other offset."). Accordingly, the Property could only be sold for less than \$2,100,000 "by written agreement of [Palco and the Debtor]." *See id.* There is no indication that Palco ever consented in writing to a decrease in the Property's purchase price. Therefore, the Plan is inconsistent with the terms of the Settlement Agreement. In sum, in selling the Property for \$1,795,000, the Plan effectively modifies Palco's rights under the Settlement Agreement because Palco would be entitled to a higher dollar sum if the Property were to be sold for \$2,100,000. *See In re Ultra Petroleum Corporation*, 943 F.3d 758, 763 (5th Cir. 2019) (A creditor is "impaired" within the meaning of the Bankruptcy Code if the plan alters the creditor's legal, equitable, or contractual rights).

*Additional Issues*

The Court further finds that both the Plan and the Disclosure Statement are

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inadequate in the following respects:

- The Debtor failed to serve the Disclosure Statement, Plan, and the Motion on the FTB.
- The proposed payout figures to Musee and Palco shown in the liquidation analysis (Exhibit A of the Disclosure Statement) do not match those figures stated in the table of general unsecured claims (Exhibit B of the Disclosure Statement). This is a problem because the Plan establishes the treatment of general unsecured creditors “as listed in Exhibit B attached to the Disclosure Statement.” Plan at 13.
- The Plan proposes to pay Palco’s claim pursuant to the distribution formula contained in the Settlement Agreement. *See* Plan at 13. The Settlement Agreement has not been affixed to the Disclosure Statement. However, the Settlement Agreement is paramount to the Plan’s execution, and it contains information “that would enable. . . a hypothetical investor of the relevant class to make an informed judgment about the plan.” 11 U.S.C. § 1125(a).
- The Debtor must identify the single claimant assigned to Class 3 and the total amount of such claimant’s interest.
- The Plan states that there are no claimants assigned to Class 1, but the Disclosure Statement identifies Clark County and the FTB as Class 1 claimants.
- The Disclosure Statement incorrectly states that the claims bar date was established as April 30, 2016; however, a bar date has not been set. Disclosure Statement at 22.

The issues discussed above were by no means an exhaustive summary of the problems encountered in the Plan. Moreover, many of the issues discussed concerning the Plan were reiterated in the Disclosure Statement. The Debtor is encouraged to thoroughly review both the Disclosure Statement and the Plan before submitting amended documents.

### III. Conclusion

Based on the foregoing, the approval of the Disclosure Statement is DENIED. The Debtor is directed to file an amended disclosure statement and an amended plan by no later than **March 20, 2020** and self-calendar a hearing for **April 15, 2020 at**



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**10:00 a.m.**

The Debtor shall upload a conforming proposed order within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

C & F Sturm, LLC

Represented By  
Stella A Havkin

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**2:19-20564 Gregory Tardaguila**

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Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#104.00** HearingRE: [23] Motion to Dismiss Adversary Proceeding Motion to Dismiss Counterclaims

Docket 23

**Tentative Ruling:**

2/18/2020

For the reasons set forth below, the Court finds that (1) only the Trustee has standing to prosecute the Counterclaims for fraud and negligent misrepresentation and that (2) the Counterclaims' remaining allegations are more appropriately construed as affirmative defenses.

**Pleadings Filed and Reviewed:**

- 1) Complaint for: (1) Determination that Debt is Excepted from Discharge and Damages; and (2) Denial of Discharge [Doc. No. 1]
- 2) Answer to Adversary Complaint [and Counterclaim] [Doc. No. 10]
- 3) Motion to Dismiss Counterclaims Filed by Gregory Tardaguila [Doc. No. 23]
  - a) Request for Judicial Notice [Doc. No. 24]
- 4) Opposition to Motion to Dismiss Counterclaims of Gregory Tardaguila Against Ann Tardaguila as Trustee of the Taradaguila Family Trust [Doc. No. 27]
  - a) Request for Judicial Notice [Doc. No. 28]
- 5) Memorandum of Points and Authorities in Reply to Opposition to Motion to Dismiss Counterclaims [Doc. No. 29]

**I. Facts and Summary of Pleadings**

On December 8, 2019, Ann Tardaguila, as Trustee of the Tardaguila Living Trust dated June 16, 1999 (the "Plaintiff/Counter-defendant"), filed this non-dischargeability action against Gregory Tardaguila (the "Defendant/Counter-claimant"). Plaintiff/Counter-defendant alleges that she loaned Defendant/Counter-claimant in excess of \$750,000; that Defendant/Counter-claimant failed to repay the indebtedness; and that Defendant/Counter-claimant committed actual fraud by diverting funds that could have been used to repay the indebtedness. The Complaint

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seeks a judgment that the indebtedness is non-dischargeable pursuant to § 523(a)(2) (A) and (a)(6), and seeks denial of Defendant/Counter-claimant's discharge pursuant to § 727(a)(2), (3), (4)(A), and (5).

Defendant/Counter-claimant filed a Counterclaim, in which he alleges that the note evidencing the indebtedness at issue in the Complaint (the "Note") is a sham that was created to change the character of the transaction from a gift to a loan. The Counterclaim alleges that the \$750,000 loaned to Defendant/Counter-claimant was an advance upon his inheritance. The Counterclaim further alleges that the Defendant/Counter-claimant did not sign the Note until several years after the funds were advanced and that Defendant/Counter-claimant was induced to sign the Note under false pretenses. The Counterclaim (1) objects to any claim against the estate on account of the Note asserted by Plaintiff/Counter-defendant; (2) seeks cancellation of the Note; and (3) seeks damages for fraud and negligent misrepresentations.

As of the date of issuance of this tentative ruling, Plaintiff/Counter-defendant has not filed a Proof of Claim against the estate. The claims bar date is March 10, 2020.

**Papers Filed in Connection with the Motion to Dismiss**

Plaintiff/Counter-defendant moves to dismiss the Counterclaim, for failure to state a claim upon which relief can be granted, pursuant to Civil Rule 12(b)(6). Plaintiff/Counter-defendant asserts that dismissal is appropriate for the following reasons:

- 1) The underlying events alleged in the Counterclaim occurred prior to the commencement of the Defendant/Counter-claimant's bankruptcy petition. As such, the claims are property of the estate, and the Chapter 7 Trustee (the "Trustee") is the real party in interest entitled to prosecute the Counterclaim.
- 2) Defendant/Counter-claimant is judicially estopped from asserting the claims set forth in the Counter-claim, because he omitted any causes of action against Plaintiff/Counter-defendant from his bankruptcy schedules.
- 3) The claim for damages for fraud is barred by the statute of limitations.
- 4) The claim for cancellation of the Note is not properly pleaded.  
Defendant/Counter-claimant has not alleged that he promptly notified Plaintiff/Counter-defendant of the facts entitling him to cancellation of the Note.

Defendant/Counter-claimant makes the following arguments in his Opposition to the

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Motion:

- 1) Defendant/Counter-claimant has standing to prosecute the Counter-claim, because the claims for damages for fraud and negligent misrepresentation will result in a surplus estate. Further, although Plaintiff/Counter-defendant has not filed a Proof of Claim, the allegations asserted in the Complaint constitute an informal Proof of Claim. Defendant/Counter-claimant has standing to object to this informal Proof of Claim, again because such an objection will produce a surplus estate.
- 2) Judicial estoppel does not apply, because Defendant/Counter-claimant has filed amended schedules listing his claims against the Plaintiff/Counter-defendant.
- 3) The fraud claim is not barred by the statute of limitations. The statute of limitations runs from the date that the fraud is discovered. Defendant/Counter-claimant did not discover the fraud until long after January 23, 2015, the date when the false representations were made.

In Reply to the Opposition, Plaintiff/Counter-defendant reiterates her arguments that (1) Defendant/Counter-claimant is judicially estopped from asserting the Counterclaims because they were omitted from his schedules; and that (2) the Counterclaims are property of the estate which only the Trustee can prosecute.

## II. Findings and Conclusions

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.' A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citations omitted). To state a plausible claim for relief, a complaint must satisfy two working principles:

First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitations of the elements of a cause of action, supported by mere conclusory statements, do not suffice.... Second, only a complaint that states a plausible claim for relief survives a motion to dismiss. Determining whether a complaint states a plausible claim for relief will ... be a context-specific task that requires the

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reviewing court to draw on its judicial experience and common sense. But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not "show[n]"—"that the pleader is entitled to relief."

*Id.* (citing Civil Rule 8(a)(2)).

Although the pleading standard Civil Rule 8 announces “does not require ‘detailed factual allegations,’ ... it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.... A pleading that offers ‘labels and conclusions’ or a ‘formulaic recitation of the elements of a cause of action will not do.’ Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

**The Counterclaims for Fraud and Negligent Misrepresentation Belong to the Estate and Can Be Prosecuted Only by the Trustee**

The Counterclaims for fraud and negligent misrepresentation accrued prepetition and are therefore property of the bankruptcy estate. As an asset of the estate, only the Trustee can pursue these claims.

Defendant/Counter-claimant has implicitly acknowledged that the fraud and negligent misrepresentation Counterclaims are estate property. First, in his Opposition to the Motion to Dismiss, Defendant/Counter-claimant states that the “[p]arties were litigating the very same factual basis as to these damage claims in State Court at the time the [Defendant/Counter-claimant] filed the instant Chapter 7 case.” Obviously the claims had to have arisen pre-petition if they were being litigated prior to commencement of the case. Second, Defendant/Counter-claimant has scheduled “[c]laims against Ann Tardaguila [Plaintiff/Counter-Defendant]” at an estimated value of \$1.2 million. Amended Schedule C at ¶ 33 [Bankr. Doc. No. 27]. Had these claims not arisen pre-petition, Defendant/Counter-claimant would not have been required to schedule them.

Civil Rule 17(a)(1) provides: "An action must be prosecuted in the name of the real party in interest." "The modern function of the rule ... is simply to protect the defendant against a subsequent action by the party actually entitled to recover, and to insure generally that the judgment will have its proper effect as *res judicata*." *U-Haul Int'l, Inc. v. Jartran, Inc.*, 793 F.2d 1034, 1039 (9th Cir. 1986). "Real party in interest doctrine ... ensures that the party bringing the action owns or has rights that can be vindicated by proving the elements of the claim for relief asserted." *Veal v. Am. Home*

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*Mortgage Servicing, Inc. (In re Veal)*, 450 B.R. 897, 908 (B.A.P. 9th Cir. 2011).

The Trustee has filed an application to employ Danning, Gill, Israel & Krasnoff, LLP (“DGIK”) as his general bankruptcy counsel. DGIK’s employment is sought for the purposes of (1) administering the estate’s claims against Dominic and Kimberly DeDomenicantanio and (2) investigating whether the instant Counterclaim is property of the estate. By separate order, the Court will provide the Trustee notice of the determination that the Counterclaims for fraud and negligent misrepresentation are property of the estate. The Trustee will have the opportunity to prosecute the fraud and negligent misrepresentation claims on the estate’s behalf, should he elect to do so. The Trustee must file notice of such an election in the adversary proceeding by no later than **March 13, 2020**.

The Court declines to find that the fraud and misrepresentation Counterclaims must be dismissed on judicial estoppel grounds. It is true that these claims were not initially scheduled by Defendant/Counter-claimant. However, Defendant/Counter-claimant has filed amended schedules acknowledging the claims. Further, the application of judicial estoppel would prove detrimental to the estate, since it would deprive the Trustee the opportunity to pursue the Counterclaims, should he wish to do so.

With respect to Plaintiff/Counter-defendant’s assertion that the fraud and misrepresentation Counterclaims are barred by the statute of limitations, the Counterclaim does not contain sufficient detail to enable the Court to determine whether the statute of limitations applies. The Counterclaim alleges that the Note was dated January 23, 2015, but does not allege the date upon which Defendant/Counterclaimant discovered that he had been fraudulently induced to sign the Note. The statute of limitations begins to run from the date upon which Plaintiff/Counter-defendant discovered, or reasonably should have discovered, the fraud and negligent misrepresentations. As explained by the California Supreme Court, the “discovery rule” “postpones accrual of a cause of action until the plaintiff discovers, or has reason to discover, the cause of action.” *Fox v. Ethicon Endo-Surgery, Inc.*, 110 P.3d 914, 920 (2005). “In order to rely on the discovery rule for delayed accrual of a cause of action, “[a] plaintiff whose complaint shows on its face that his claim would be barred without the benefit of the discovery rule must specifically plead facts to show (1) the time and manner of discovery *and* (2) the inability to have made earlier discovery despite reasonable diligence.” *Id.* at 920–21.

As a result of the lack of specificity regarding the date of Defendant/Counter-claimants’ discovery of the fraud and negligent misrepresentations, the fraud and

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misrepresentation Counterclaims will be dismissed, but the Trustee will be provided leave to file an amended Counterclaim in the event he elects to pursue the Counterclaims. The amended Counterclaim shall be filed by **March 27, 2020**, fourteen days after the Trustee's deadline to determine whether to prosecute the Counterclaims.

**The Counterclaims' Remaining Claims Are More Appropriately Designated as Affirmative Defenses**

In addition to asserting claims for fraud and negligent misrepresentation, the Counterclaim (1) objects to any claim against the estate asserted by the Plaintiff/Counter-defendant on account of the Note and (2) seeks cancellation of the Note. These remaining claims are more appropriately designated as affirmative defenses to the Complaint. Civil Rule 8(c)(2), made applicable to these proceedings by Bankruptcy Rule 7008, provides: "If a party mistakenly designates a defense as a counterclaim, or a counterclaim as a defense, the court must, if justice requires, treat the pleading as though it were correctly designated, and may impose terms for doing so." "Caselaw does not interpret the phrase 'justice so requires,' but we have held that a district court's decisions with regard to the treatment of affirmative defenses is reviewed for an abuse of discretion." *389 Orange St. Partners v. Arnold*, 179 F.3d 656, 664 (9th Cir. 1999).

The Complaint alleges that Defendant/Counter-claimant borrowed in excess of \$750,000 from Plaintiff/Counter-defendant; that Defendant/Counter-claimant failed to repay the indebtedness; and that Defendant/Counter-claimant committed actual fraud by diverting the funds that could have been used to repay the indebtedness. The Counterclaim alleges that the \$750,000 that Defendant/Counter-claimant received was a gift, not a loan, and that Defendant/Counter-claimant was fraudulently induced to sign the Note only after the funds had been gifted. In other words, the Counter-claim asserts that the indebtedness alleged in the Complaint is not valid, and that accordingly the Complaint's non-dischargeability claims must fail.

If Defendant/Counter-claimant prevailed upon the Counter-claim's allegations, he would succeed in defeating Plaintiff/Counter-defendant's non-dischargeability claims. Specifically, if the \$750,000 in funds was a gift, not a loan, Plaintiff/Counter-defendant could not establish liability for non-dischargeability, and Plaintiff/Counter-defendant would not be able to assert a claim against the estate on account of the Note. Beyond prevailing against Plaintiff/Counter-defendant with respect to the Complaint, Defendant/Counter-claimant would gain no additional affirmative relief

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by reason of the Counter-claim. As a result, the Counter-claim's remaining allegations are more appropriately treated as affirmative defenses. Construing the remaining allegations in this manner simplifies the procedural posture of the action and reduces costs going forward. In addition, the Court notes that the Answer already pleads the material allegations of the Counterclaim as affirmative defenses.

### **III. Conclusion**

Based upon the foregoing, the Court finds that (1) only the Trustee has standing to prosecute the Counterclaims for fraud and negligent misrepresentation and that (2) the Counterclaims' remaining allegations are more appropriately construed as affirmative defenses.

The Court will prepare and enter appropriate orders.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Represented By  
Andrew P Altholz

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick  
Jonathan Udewitz



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**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

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**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01405 Elissa D. Miller, solely in her capacity as chapte v. American Express

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01405. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against American Express Company, a New York Corporation, American Express Travel Related Services Company, Inc., a New York Corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

10-28-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-25-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev

**United States Bankruptcy Court  
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9:00 AM

**CONT...**

**QUIGG LA11, LLC**

Asa S Hami  
Jessica Vogel

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, February 24, 2020**

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9:00 AM

**2:17-13266 Golden Diamond International Inc.**

**Chapter 7**

Adv#: 2:18-01303 Krasnoff, Chapter 7 Trustee v. Complete Business Solutions Group, Inc. et al

**#2.00** Trial Date Set

RE: [27] Amended Complaint Trustee's First Amended Complaint for Interpleader by Sonia Singh on behalf of Brad D Krasnoff (TR), Brad D. Krasnoff, Chapter 7 Trustee against all defendants. (RE: related document(s)1 Adversary case 2:18-ap-01303. Complaint by Brad D. Krasnoff, Chapter 7 Trustee against Complete Business Solutions Group, Inc., ML Factors Funding LLC, Last Chance Funding, Inc., TVT Capital LLC, Finishline Capital, Inc., Karish Kapital LLC, Yellowstone Capital West. (Charge To Estate). Trustee's Complaint for Interpleader Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) filed by Plaintiff Brad D. Krasnoff, Chapter 7 Trustee). (Singh, Sonia)

Docket 27

**\*\*\* VACATED \*\*\* REASON: DISMISSED 5-28-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Golden Diamond International Inc.	Represented By Maria W Tam
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**Defendant(s):**

Complete Business Solutions Group,	Pro Se
ML Factors Funding LLC	Pro Se
Last Chance Funding, Inc.	Pro Se
TVT Capital LLC	Pro Se
Finishline Capital, Inc.	Pro Se
Karish Kapital LLC	Pro Se
Yellowstone Capital West	Pro Se

**United States Bankruptcy Court  
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9:00 AM

**CONT... Golden Diamond International Inc. Chapter 7**

Rapid Capital Funding II, LLC Pro Se

Corporation Service Company, as Pro Se

CT Corporation System as Pro Se

**Plaintiff(s):**

Brad D. Krasnoff, Chapter 7 Trustee      Represented By  
Sonia Singh  
Eric P Israel

**Trustee(s):**

Brad D Krasnoff (TR)      Represented By  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Hearing Room 1568**

9:00 AM

**2:18-10616 Manuel Macias**

**Chapter 7**

Adv#: 2:19-01128 Krasnoff, Chapter 7 Trustee v. Estrada et al

**#3.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01128. Complaint by Brad D. Krasnoff, Chapter 7 Trustee against Janet Estrada, Steven Molina. (Charge To Estate). -Complaint to Avoid Voidable Transactions and for Turnover Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)) (D'Alba, Michael)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 7-16-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Manuel Macias

Represented By  
Jennifer Ann Aragon - SUSPENDED -

**Defendant(s):**

Janet Estrada

Pro Se

Steven Molina

Pro Se

**Plaintiff(s):**

Brad D. Krasnoff, Chapter 7 Trustee

Represented By  
Michael G D'Alba

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel

**United States Bankruptcy Court  
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9:00 AM

**2:18-21250 Thomas Ernesto Merino**

**Chapter 7**

Adv#: 2:18-01460 Foreman v. Merino

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01460. Complaint by Star Rae Foreman against Thomas Ernesto Merino . 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)) (Del Mundo, Wilfredo) Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo). Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo).

FR. 6-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 2-12-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Thomas Ernesto Merino

Represented By

Kourosh M Pourmorady

**Defendant(s):**

Thomas Ernesto Merino

Pro Se

**Plaintiff(s):**

Star Rae Foreman

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
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9:00 AM

**2:18-22399 Dorothy Victoria Long**

**Chapter 7**

Adv#: 2:19-01086 United States Trustee for the Central District of v. Long

**#5.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01086. Complaint by United States Trustee (LA) against Dorothy Victoria Long. (Fee Not Required). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference)  
Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e)))  
(Morrison, Kelly)

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to 3-23-2020 at 9:00 a.m.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Dorothy Victoria Long Pro Se

**Defendant(s):**

Dorothy Victoria Long Pro Se

**Plaintiff(s):**

United States Trustee for the Central Represented By  
Kelly L Morrison

**Trustee(s):**

Brad D Krasnoff (TR) Pro Se



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9:00 AM

**2:18-24769 Paul A. Carrasco**

**Chapter 7**

Adv#: 2:19-01085      MERCHANTS ACQUISITION GROUP LLC v. Carrasco

**#6.00** Trial Date Set  
RE: [1] Adversary case 2:19-ap-01085. Complaint by MERCHANTS ACQUISITION GROUP LLC against Paul Carrasco. false pretenses, false representation, actual fraud)) (Snyder, Richard)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONT'D TO 5-25-20 at 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Paul A. Carrasco

Represented By  
Raymond H. Aver

**Defendant(s):**

Paul Carrasco

Pro Se

**Plaintiff(s):**

MERCHANTS ACQUISITION

Represented By  
Richard W Snyder

**Trustee(s):**

David M Goodrich (TR)

Pro Se

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Central District of California  
Los Angeles  
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9:00 AM

**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#7.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-25-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

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Central District of California  
Los Angeles  
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**Monday, February 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:13-20738 Sergio Miranda**

**Chapter 11**

Adv#: 2:19-01079      Miranda et al v. BANK OF AMERICA NATIONAL ASSOCIATION et al

**#8.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01079. Complaint by Sergio Lopez Miranda against BANK OF AMERICA NATIONAL ASSOCIATION. (Charge To Estate). (Attachments: # 1 Supplement Summons) Nature of Suit: (91 (Declaratory judgment)),(72 (Injunctive relief - other)),(21 (Validity, priority or extent of lien or other interest in property)) (Akintimoye, David)

Docket      1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT IN FAVOR OF SHELLPOINT MORTGAGE ENTERED 9-6-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Sergio Miranda

Represented By  
David A Akintimoye

**Defendant(s):**

BANK OF AMERICA NATIONAL

Pro Se

Shellpoint Mortgage Servicing LLC

Pro Se

DOES 1-10, Inclusive

Pro Se

**Joint Debtor(s):**

Esmeralda Miranda

Represented By  
David A Akintimoye

**Plaintiff(s):**

Esmeralda Miranda

Represented By  
David A Akintimoye

Sergio Lopez Miranda

Represented By  
David A Akintimoye

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**CONT... Sergio Miranda**

**Chapter 11**

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Central District of California  
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**Monday, February 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

Adv#: 2:19-01077 Sharp v. Wright et al

**#9.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01077. Complaint by Bradley Sharp against Merle D. Wright, Patricia S. Wright & Bradford W. Wright. priority or extent of lien or other interest in property)) (Greenwood, Gail)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT 6-5-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Liberty Asset Management

Represented By  
David B Golubchik  
Jeffrey S Kwong  
John-Patrick M Fritz  
Eve H Karasik  
Sandford L. Frey  
Raphael Cung

**Defendant(s):**

Merle D Wright

Pro Se

Patricia S Wright

Pro Se

Bradford W Wright

Pro Se

**Plaintiff(s):**

Bradley Sharp

Represented By  
Gail S Greenwood

**United States Bankruptcy Court  
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Los Angeles  
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**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#10.00 Trial Date Set**

RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 1-27-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-27-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel

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9:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

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Central District of California  
Los Angeles  
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**Monday, February 24, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23184 Arturo Vargas Neri**

**Chapter 7**

**#100.00** HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Subaru Ascent VIN# 4S4WMAFD3K3484645 with proof of service. (Yabes, Gilbert)

Docket 9

**Tentative Ruling:**

2/20/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case. In addition, the Court takes notice of Debtor's stated intention to surrender the vehicle. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.



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10:00 AM

**CONT... Arturo Vargas Neri**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Arturo Vargas Neri

Represented By  
Francis Guilardi

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Monday, February 24, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24936 Martin Anguiano**

**Chapter 7**

**#101.00** HearingRE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA CIVIC, VIN: 2HGF C1F9 XHH6 50329 .

Docket 12

**Tentative Ruling:**

2/20/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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Central District of California  
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10:00 AM

**CONT... Martin Anguiano**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Martin Anguiano

Represented By  
Henry Glowa

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Monday, February 24, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-25164 Christopher Robles**

**Chapter 7**

**#102.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Nissan Kicks, VIN: 3N1CP5CU7JL527125 . (Wang, Jennifer)

Docket 10

**Tentative Ruling:**

2/20/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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**CONT... Christopher Robles**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Christopher Robles

Represented By  
D Justin Harelik

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
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**Monday, February 24, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#103.00** HearingRE: [3972] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: State Court litigation . (Baum, Richard)

Docket 3972

**Tentative Ruling:**

2/20/2020

For the reasons set forth below, the Motion is GRANTED; however, the order granting the Motion shall not take effect until after **April 30, 2020**.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 [Doc. No. 3972] (the "Motion")
- 2) Debtors' Response and Opposition to Motion for Relief from the Automatic Stay Filed on Behalf of Mesha Sanford AKA Samesha Sanford [Doc. No. 4067]
- 3) Official Committee of Unsecured Creditors' Joinder to Debtors' Response and Opposition to Motion for Relief from the Automatic Stay Filed on Behalf of Mesha Sanford AKA Samesha Sanford [Doc. No. 4068]
- 4) Creditor Mesha Sanford's Reply to Debtor's Opposition to Motion for Relief from Stay to Proceed with State Court Claims for Unlawful Employment Practices [Doc. No. 4089]

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

Mesha Sanford (the "Movant") seeks stay relief, pursuant to § 362(d)(1), for the purposing of litigating a wrongful termination action against VHS in the Los Angeles Superior Court (the "State Court Action"). Movant seeks recovery only from applicable insurance.

Debtors oppose the Motion. Debtors argue that Movant can no longer assert a

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

claim because she failed to timely file either a proof of claim or a proof of administrative claim. In the event the Court is inclined to grant the Motion, Debtors request that stay relief not take effect until after April 30, 2020, so they can retain their focus on the sale of their remaining assets. The Official Committee of Unsecured Creditors joins the Debtors' opposition.

Movant makes the following arguments in reply to the opposition of the Debtors and the Committee:

- 1) Movant did not file a proof of claim, or an administrative proof of claim, because she never received notice of the claims bar date or the administrative claims bar date. The claims bar date notices were mailed to Movant's old address, not her current address. On October 15, 2018, while still employed at VHS, Movant submitted an *Employee Change Form* which notified VHS of her current address. VHS' awareness of Movant's current address is established by the fact that in February 2019, VHS sent a WARN Act notice to Movant's current address.
- 2) Lifting the stay will not interfere with the Debtors' efforts to liquidate their remaining assets, since Movant seeks recovery only from applicable insurance and the Debtors' insurance carrier will be obligated to defend the Debtors.

## **II. Findings and Conclusions**

### **A. Movant's Failure to File Proofs of Claim Does Not Require Denial of the Motion**

A creditor who is not given formal notice of the claims bar date is not barred from subsequently asserting a claim against the estate. *Levin v. Maya Const. Co. (In re Maya Const. Co.)*, 78 F.3d 1395, 1399 (9th Cir. 1996). "The fact that a creditor has actual knowledge that a Chapter 11 bankruptcy proceeding is going forward involving a debtor does not obviate the need for notice." *Id.*

Here, the Debtors mailed notice of the claims bar date and the administrative claims bar date to Movant's old address in Pasadena, California. Movant did not receive notice of either of the bar dates at her current address in Valencia, California. This was despite the fact that while still employed at VHS, Movant had formally notified the Debtors of her current Valencia address. *See* Sanford Decl. at ¶ 5 and Ex. A [Doc. No. 4089] (copy of *Employee Change Form* submitted by Movant to VHS providing notice of her Valencia address). Debtors were aware of Movant's Valencia address, having sent WARN Act notices to the Valencia address in February 2019 and

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March 2019. *See* Sanford Decl. at ¶¶ 6–7 and Exs. B and C.

Because Movant did not receive formal notice of either the claims bar date or the administrative claims bar date, she is not barred from asserting a claim against the estates.

In her reply brief, Movant requests additional relief that was not sought in the Motion—specifically, that the Court treat the Motion as an informal claim or allow Movant the opportunity to file a proof of claim. Local Bankruptcy Rule ("LBR") 9013-1(g)(4) prohibits the introduction of new evidence or arguments in reply papers. LBR 9013-1(g)(4) is a codification of the Ninth Circuit's well-established "general rule that [litigants] cannot raise a new issue for the first time in their reply briefs." *Martinez-Serrano v. I.N.S.*, 94 F.3d 1256, 1259 (9th Cir. 1996). The Court declines to consider the additional relief requested in the reply, as doing so would deprive the Debtors of an opportunity to respond. Movant may seek such relief by way of a separately filed motion.

**B. The Motion is Granted, But Stay Relief Shall Not Take Effect Until After April 30, 2020**

As explained by the Ninth Circuit Bankruptcy Appellate Panel in *Kronemyer v. American Contractors Indemnity Co. (In re Kronemyer)* (internal citations omitted): "What constitutes 'cause' for granting relief from the automatic stay is decided on a case-by-case basis. Among factors appropriate to consider in determining whether relief from the automatic stay should be granted to allow state court proceedings to continue are considerations of judicial economy and the expertise of the state court, ... as well as prejudice to the parties and whether exclusively bankruptcy issues are involved." 405 B.R. 915, 921. The factors articulated in *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984) and adopted by the bankruptcy court in *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551, 559-60 (Bankr. C.D. Cal. 2004) are also "appropriate, nonexclusive factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum." *Kronemyer*, 405 B.R. at 921. The *Curtis* factors are as follows:

- 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 a fiduciary;
- 4) Whether a specialized tribunal has been established to hear the particular cause



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- of action and whether that tribunal has the expertise to hear such cases;
- 5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
  - 6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
  - 7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;
  - 8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c);
  - 9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);
  - 10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties;
  - 11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial, and
  - 12) The impact of the stay on the parties and the "balance of hurt."

*Plumberex*, 311 B.R. at 599.

The most important of the twelve factors is the effect of the non-bankruptcy litigation on the administration of the estate. *Curtis*, 40 B.R. at 806. The *Curtis* court held that "[e]ven slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit." *Id.*

Movant and Debtors dispute the extent to which granting immediate stay relief would interfere with Debtors' liquidation of their remaining assets. Movant asserts that immediate stay relief would have very little impact on the ability of the Debtors' professionals to attend to pressing matters pertaining to asset disposition; the Debtors dispute this contention.

The Court finds that although it certainly would be possible for the Debtors to defend against the State Court Action at this time, requiring them to do so would nonetheless interfere with the case by distracting the Debtors' professionals from urgent matters pertaining to the liquidation of their remaining assets. While it is true that primary responsibility for the Debtors' defense could be assigned to special litigation counsel, the Debtors' general bankruptcy counsel would still be required to monitor the litigation. The case is at a critical juncture. The Debtors' cash on hand is rapidly being depleted, giving the Debtors only a limited window to liquidate assets before funds are exhausted. The Debtors' most recent cash collateral budget projects

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that the Debtors' total cash balance will decrease from approximately \$66 million at the end of January 2020 to approximately \$29 million at the end of February 2020. See Doc. No. 4019 at Ex. A.

To enable the Debtors to focus upon disposing of their remaining assets, the Court will grant stay relief, but such relief shall not take effect until after April 30, 2020. This result gives the Debtors some breathing space to achieve their objectives, while at the same time delaying Movant's ability to proceed with the State Court Action by only approximately one month.

**C. The Stay is Retroactively Annulled to the Petition Date**

"[T]he proper standard for determining 'cause' to annul the automatic stay retroactively is a 'balancing of the equities' test." *Fjeldsted v. Lien (In re Fjeldsted)*, 293 B.R. 12, 24 (B.A.P. 9th Cir. 2003). In weighing the equities, the general trend has been to focus on two factors: "(1) whether the creditor was aware of the bankruptcy petition; and (2) whether the debtor engaged in unreasonable or inequitable conduct, or prejudice would result to the creditor." *Id.*

Movant states that she was not aware of the bankruptcy petition at the time of the filing of the State Court Action. Nothing in the record indicates that prejudice would result to the Debtors from retroactive annulment of the stay. The Court finds it appropriate to retroactively annul the stay to the Petition Date.

**III. Conclusion**

Based upon the foregoing, the Motion is GRANTED, except that stay relief shall not take effect until after **April 30, 2020**. The stay is annulled retroactively to the Petition Date. Within seven days of the hearing, Movant shall submit an order incorporating this tentative ruling by reference. **[Note 1]**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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**Note 1**

To ensure that the Debtors have the opportunity to review Movant's proposed order as to form, Movants shall either (a) submit a *Notice of Lodgment* of the proposed order in accordance with the procedure set forth in Local Bankruptcy Rule 9021-1(b)(3)(A) or, in the alternative, shall (b) obtain Debtors' endorsement as to the form of the proposed order pursuant to the procedure set forth in Local Bankruptcy Rule 9021-1(b)(3)(C).

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**#104.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 12933 Walsh Avenue, Los Angeles, CA 90066 .

Docket 8

**Tentative Ruling:**

2/20/2020

For the reasons set forth below, the Motion is GRANTED on the terms stated below.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for Relief from the Automatic Stay or for Order Confirming that the Automatic Stay Does not Apply Under 11 U.S.C. § 362(i) (Unlawful Detainer) [Doc. No. 8] (the "Motion")
2. Updated Proof of Service on Notice of the Motion [Doc. No. 10]
3. Debtor's Opposition to Motion for Relief of Automatic Stay Filed [Doc. No. 11] (the "Opposition")
4. As of the date of this tentative ruling, no reply is on file

**I. Facts and Summary of Pleadings**

On February 1, 2020, Gaura Taneja (the "Debtor") filed a voluntary chapter 7 petition (the "Petition Date"). Scott Ehrlich (the "Movant") seeks relief from the automatic stay pursuant to §§ 362(d)(1) and (d)(2) to continue with an unlawful detainer action against the Debtor with respect to the Debtor's possession of residential premises located at 12933 Walsh Avenue, Los Angeles, California 90066 (the "Property"). [Note 1] The Movant asserts that there is cause to lift the stay because he acquired title to the Property before the Petition Date through a foreclosure sale and because this bankruptcy petition was filed in bad faith. Additionally, the Movant alleges that Debtor has no equity in the Property, and the Property is unnecessary to an effective organization.

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In support of his Motion, the Movant attached a copy of a post-foreclosure Trustee's Deed Upon Sale dated December 9, 2019 (the "Trustee's Deed"). *See* Motion, Ex. 1. A cover sheet issued by the Los Angeles County's Recorder's Office indicates that the Trustee's Deed was recorded on December 18, 2019. *See id.* The Trustee's Deed identifies Superior Loan Servicing ("Superior") as the trustee and grantor, and Scott Ehrlich as the grantee. The Trustee's Deed provides for the purchase of the Property, and its conveyance to Movant, based on Movant's successful bid of \$999,901.63 at a non-judicial foreclosure sale. *See id.* The Trustee's Deed further states that the foreclosure sale was compliant with the terms provided in a deed of trust executed by the Debtor with respect to the Property, which the Debtor defaulted upon on or about December 28, 2017. *See id.*

The Movant additionally attached the following documents in support of the Motion: 1) a Notice to Quit, dated December 19, 2019 (the "Notice"), and 2) a copy of the verified unlawful detainer complaint (the "UD Complaint"). *See generally* Motion, Exs. 2, 3. Both the Notice and the UD Complaint affirmatively identify the Debtor and another individual by the name of "Gaurasundara Prabhu."

The Movant also requests that the Court waive the 14-day stay prescribed by FRBP 4001(a)(3) and for certain extraordinary relief with respect to the Property.

**Debtor's Opposition**

On February 14, 2020, the Debtor filed a timely opposition to the Motion (the "Opposition"), acknowledging receipt of the Motion. The Debtor, through his counsel, contends that the Motion should be denied because (i) "[t]here are title mistakes made by the creditor on the [Property];" and (ii) the Debtor intends to file an adversary proceeding to litigate the issue. *See* Opposition at 2. The one-page Opposition, which is virtually limited to the description of arguments provided above, fails to offer any discussion on the Property's alleged title defects. Further, the Debtor requests that the automatic stay not be lifted pending resolution of the adversary proceeding.

As of the date this tentative ruling was prepared, there is no reply on file, and no adversary proceeding has been filed. On February 20, 2020, the instant case was dismissed due to the Debtor's failure to timely file mandatory case commencement

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documents [Doc. No. 12].

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## II. Findings of Fact and Conclusions of Law

### A. Cause Exists to Grant Relief From Stay Pursuant to § 362(d)(1)

As a preliminary matter, a motion for relief from the automatic stay is a summary proceeding that does not involve an adjudication of the merits of the underlying claims. As recognized by the Ninth Circuit Bankruptcy Appellate Panel in *In re Luz Int'l, Ltd.*:

Given the limited grounds for obtaining a motion for relief from stay, read in conjunction with the expedited schedule for a hearing on the motion, most courts hold that motion for relief from stay hearings should not involve an adjudication of the merits of claims, defenses, or counterclaims, but simply determine whether the creditor has a colorable claim to the property of the estate. *See In re Johnson*, 756 F.2d 738, 740 (9th Cir.), *cert. denied*, 474 U.S. 828, 106 S.Ct. 88, 88 L.Ed.2d 72 (1985) ("Hearings on relief from the automatic stay are thus handled in a summary fashion. The validity of the claim or contract underlying the claim is not litigated during the hearing.").

219 B.R. 837, 842 (B.A.P. 9th Cir. 1998) (citation omitted). In a summary proceeding, the court's discretion is broad. *In re Santa Clara Cty. Fair Ass'n, Inc.*, 180 B.R. 564, 566 (B.A.P. 9th Cir. 1995).

Section 362(d)(1) provides that "[o]n request of a party in interest and after notice and a hearing, the court *shall* grant relief from the stay . . . (1) for cause . . ." 11 U.S.C. § 362(d)(1) (emphasis added). "What constitutes 'cause' for granting relief from the automatic stay is decided on a case-by-case basis." *Kronemyer v. Am. Contractors Indem. Co. (In re Kronemyer)*, 405 B.R. 915, 921 (B.A.P. 9th Cir. 2009); *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162, 1166 (9th Cir. 1990). "To obtain relief from the automatic stay, the party seeking relief must first establish a prima facie case that 'cause' exists for relief under § 362(d)(1)." *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551, 557 (Bankr. C.D. Cal. 2004). "Once a prima facie case has been established, the burden shifts to the debtor to show that relief from the stay is

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unwarranted." *Id.*

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The Movant has made a *prima facie* showing that "cause" exists to lift the stay under § 362(d)(1) based upon the completion of a prepetition foreclosure sale, the prepetition recording of the Trustee's Deed, and the commencement of the unlawful detainer action prior to the Petition Date. *See In re Bebensee-Wong*, 248 B.R. 820, 823 (B.A.P. 9th Cir. 2000) (affirming an order of stay-relief under § 362(d)(1) premised on the prepetition perfection of a trustee's deed upon sale); *see also* Kathleen P. March and Hon. Alan M. Ahart, *California Practice Guide: Bankruptcy*, ¶ 8:1196 (2010) ("[W]here a real property nonjudicial foreclosure was completed *and the deed recorded prepetition*, the debtor has neither equitable nor legal title to the property at the time the bankruptcy petition is filed.") (emphasis in original). Accordingly, at the time the Movant filed the UD Complaint, the Debtor did not possess title to the Property, and therefore, relief from stay is appropriate. *See California Practice Guide: Bankruptcy*, ¶ 8:1195 ("[T]here is no reason not to allow the creditor to repossess because filing a bankruptcy petition after loss of ownership cannot reinstate the debtor's title.") (internal citations omitted); *see also id.* at ¶ 8:1196 ("[T]he debtor is essentially a 'squatter,' and thus cause for relief from stay is established.").

The Debtor has not carried the burden to show that relief from stay is unwarranted. The Debtor's argument that the Motion should be denied, given the filing of an adversary proceeding at an unspecified later date is unpersuasive. The unlawful detainer proceeding may go forward because the Debtor's right to possess the Property must be determined. This does not change simply because a bankruptcy petition was filed. *See In re Butler*, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002); *see also In re Ho*, No. BAP CC-10-1363-MKPAD, 2011 WL 4485895, at \*6 (B.A.P. 9th Cir. Aug. 9, 2011) (bankruptcy court did not abuse its discretion in granting creditor relief from stay to continue unlawful detainer litigation despite a pending adversary proceeding); *In re Robbins*, 310 B.R. 626, 630 (B.A.P. 9th Cir. 2004) (granting or denying relief from stay while adversary proceeding is pending is within the sound discretion of the bankruptcy court). In sum, the Movant has established cause for relief from stay under § 362(d)(1).

Separately, the Movant claims that this petition was filed in bad faith on the single fact that Movant is listed as one of few creditors in Debtor's commencement

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documents. Here, on the facts presented, the Court cannot conclude that Debtor's bankruptcy petition was filed in bad faith. *See Matter of Little Creek Dev. Co.*, 779 F.2d 1068, 1074 (5th Cir. 1986) (a finding of bad faith requires "an examination of all the particular facts and circumstances in each case.") (internal citations omitted).

**B. Cause Exists to Grant Relief From Stay Pursuant to § 362(d)(2)**

The Movant also argues that cause exists to lift the stay pursuant to § 362(d)(2). For relief to be granted under § 362(d)(2), the debtor must both (i) lack equity in the property, and (ii) the property must not be necessary for an effective reorganization. *See* 11 U.S.C. § 362(d)(2). Here, the Movant has established that the Debtor no longer possesses title to the Property, and this being a chapter 7 case, the Property is not necessary to an effective reorganization. Further, the Debtor did not adequately explain why the Movant's title is defective; and for the reasons set forth above, the Debtor has not sustained his burden of proof with respect to § 362(d)(2) either. Therefore, relief from the automatic stay is also appropriate under § 362(d)(2).

**III. Conclusion**

For the reasons set forth above, the Motion is GRANTED pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the Movant to continue with prosecution of an unlawful detainer proceeding and proceed under applicable state law to final judgment. This order shall be binding and effective despite conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The Court also finds it appropriate to waive the 14-day stay prescribed by Federal Rule 4001(a)(3). All other relief is denied.

Finally, the Court notes that Debtor's case was dismissed on February 20, 2020 [Doc. No. 12]. The Court vacates the dismissal for the limited purpose of entering an order on this Motion. The Movant is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should



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an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** On December 26, 2019, the Movant filed an unlawful detainer proceeding against Debtor in a case pending at the Santa Monica Superior Court, captioned Case No. 19SMUD02591. The trial for this matter has been continued to an unspecified date in March 2020. See Motion at 8, ¶ 7(c)(3).

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

Gaura Taneja

Represented By  
Anthony P Cara

**Trustee(s):**

John J Menchaca (TR)

Pro Se

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**Chapter 11**

**#1.00** HearingRE: [4069] Motion Debtors' Notice of Motion and Motion for the Entry of (I) An Order (1) Approving Form of Asset Purchase Agreement; (2) Approving Auction Sale Format and Bidding Procedures, (3) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (4) Approving Form of Notice to be Provided to Interested Parties; (5) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (6) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases; and (II) An Order Authorizing the Sale of Property Free and Clear of All Claims, Liens and Encumbrances; Memorandum of Points and Authorities In Support Thereof

Docket 4069

**Tentative Ruling:**

2/25/2020

For the reasons set forth below, the Bidding Procedures Motion is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Motion for the Entry of (I) An Order (1) Approving Form of Asset Purchase Agreement; (2) Approving Auction Sale Format and Bidding Procedures; (3) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (4) Approving Form of Notice to be Provided to Interested Parties; (5) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (6) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases; and (II) An Order Authorizing the Sale of Property Free and Clear of All Claims, Liens and Encumbrances [Doc. No. 4069] (the "Bidding Procedures Motion")
  - a) Application for Order Setting Hearing on Shortened Notice [Doc. No. 4070]
  - b) Order Granting Application and Setting Hearing on Shortened Notice [Doc. No. 4071]
  - c) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4069, 4070, 4071 and 4075 [Doc. No. 4115]
- 2) Opposition Papers:

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- a) Limited Objection to [Bidding Procedures Motion] [filed by UnitedHealthcare Ins. Co.] [Doc. No. 4106]
- b) Reservation of Rights of U.S. Bank, N.A. [Doc. No. 4108]
- c) SEIU-UHW's Reservation of Rights to Debtors' Bidding Procedures Motion [Doc. No. 4119]
  - i) Proof of Service [Doc. No. 4120]
- 3) Debtors' Reply and Supplement in Support of [Bidding Procedures Motion] [Doc. No. 4132]

## **I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

Debtors seek approval of procedures governing the auction of St. Francis Medical Center ("St. Francis") and related assets (collectively, the "Purchased Assets"). *See* Doc. No. 4069 (the "Bidding Procedures Motion"). The Asset Purchase Agreement (the "APA") governing the sale of the Purchased Assets has not yet been filed with the Court. The form of asset purchase agreement for the Sale [**Note 1**] is posted in the Debtors' online data room (the "Draft APA"). The proposed bidding procedures (the "Bidding Procedures") require prospective bidders to submit an executed asset purchase agreement, in the form of the Draft APA, accompanied by a marked version evidencing any changes to the Draft APA.

### **A. Bidding Procedures Pertaining to the Auction**

The material terms of the Bidding Procedures, as they pertain to the Auction, may be summarized as follows [**Note 2**]:

- 1) Only bidders submitting a Qualified Bid are entitled to participate in the Auction. In order to constitute a Qualified Bid, a Bid must satisfy the following requirements (the "Bid Requirements"):
  - a) Be accompanied by a deposit in the amount of 10% of the aggregate Purchase Price. *Id.* at ¶ 9(h).
  - b) Provide sufficient and adequate information to demonstrate to the satisfaction of the Debtors, in consultation with the Consultation Parties, [**Note 3**] that the bidder has the financial wherewithal to consummate the

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Sale. *Id.* at ¶ 9(i).

- c) Include a written statement that the bidder consents to the jurisdiction of the Bankruptcy Court (including waiving any right to a jury trial) in connection with any disputes related to the Bidding Procedures, the Auction, the Sale Hearing, the Sale Order, and/or the closing of the Sale. *Id.* at ¶ 9(j).
- d) State that the bidder is willing to serve as a Back-Up Bidder and that its Qualified Bid shall constitute the Back-Up Bid if the Debtors determine that it qualifies as the Back-Up Bid. *Id.* at ¶ 9(n). The Back-Up Bidder must keep the Back-Up Bid open and irrevocable until the earlier of (i) 30 days after entry of the Sale Order or (ii) the date of the closing of the Sale to the Winning Bidder. *Id.* at ¶ 14(a).
- 2) An Auction will be conducted only if the Debtors receive more than one Qualified Bid. *Id.* at ¶ 11. After the Opening Bid, successive bids shall be in increments of at least \$2 million.
- 3) The Debtors, in their discretion, after consultation with the Official Committee of Unsecured Creditors (the "Committee") and with the prior consent of the Prepetition Secured Creditors, may designate any Qualified Bidder as the Stalking Horse Bidder. *Id.* at ¶ 10. The Debtors have no obligation to make such a designation. *Id.* The designation of stalking horse status and the award of stalking horse protections may occur without further notice or order of the Court at any time up to and including the commencement of the Auction. *Id.* The Stalking Horse Bidder, if any, is entitled to a break-up fee of 2.5% of the Purchase Price (the "Break-Up Fee"). *Id.*
- 4) The Auction shall take place on April 7, 2020, at the offices of the Debtors' counsel.

**B. Bidding Procedures Pertaining to the Assumption and Assignment of Unexpired Leases and Executory Contracts**

The material terms of the Bidding Procedures, as they pertain to the assumption and assignment of executory contracts and unexpired leases, may be summarized as follows:

- 1) In connection with the Sale, the Debtors will seek to assume and assign certain executory contracts and unexpired leases (collectively, the "Assumed Executory Contracts") pursuant to § 365. (For simplicity, as used hereafter,

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the term "executory contract" means an executory contract and/or an unexpired lease, as the context requires.)

- 2) Qualified Bidders must designate executory contracts subject to assumption by no later than seven days prior to the Auction. The Winning Bidder will have the right to remove executory contracts up to thirty days prior to the Closing Date.
- 3) The Debtors will serve a Cure Notice upon the counterparty to each Assume Executory Contract. The Cure Notice will identify the amount, if any, that the Debtors believe is owed to each counterparty to cure any defaults that exist under such contract (the "Cure Amounts"). The Cure Notice will specify the deadlines for counterparties to (a) object to the sufficiency of the Cure Amount and/or (b) object to the assumption and assignment of the Assumed Executory Contracts.

**C. Summary of UnitedHealthcare Insurance Company's Objection and the Debtors' Reply Thereto**

UnitedHealthcare Insurance Company ("UnitedHealthcare") provides healthcare insurance benefits to members insured under its group medical policies through a network of providers. UnitedHealthcare is a party to various contracts with St. Francis, pursuant to which St. Francis is an in-network provider to UnitedHealthcare's members.

UnitedHealthcare asserts that the Debtors should be required to provide an irrevocable designation as to whether UnitedHealthcare's contracts will be assumed and assigned by no later than 70 days prior to the Closing Date. UnitedHealthcare contends that such notice is necessary to enable it to comply with regulations requiring that UnitedHealthcare provide its members at least 60 days' notice of the termination of a contract with a health care provider.

Debtors contend that the 30 days' notice of an irrevocable designation provided under the Bidding Procedures is sufficient. Debtors state that requiring a faster determination would give UnitedHealthcare an undue advantage in negotiations, since the contracts with UnitedHealthcare are critical to the future success of St. Francis.

**II. Findings and Conclusions**

The Court's findings regarding the proposed bidding procedures are governed primarily by the need to insure that the Winning Bidder at the Auction closes the Sale. As the Court has stated on multiple prior occasions, the Debtors' cash flow situation

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is dire. If the Sale does not close, the Debtors most likely will not have sufficient funds to keep St. Francis open until negotiation and approval of a new sale transaction. The Debtors' most recent cash collateral budget projects that during the period of January 25 to February 29, 2020, the Debtors' cash balance will decrease from approximately \$65.7 million to approximately \$28.6 million. *See* Doc. No. 4019 at Ex. A. That translates to a cash burn rate of approximately \$1.06 million per day, a significant increase from the cash burn rate of \$450,000 per day that existed as of the Petition Date.

The Court's obligation is to approve bidding procedures that are most likely to maximize the proceeds received by the estates in connection with the Auction. *See Simantob v. Claims Prosecutor, LLC (In re Lahijani)*, 325 B.R. 282, 288–89 (B.A.P. 9th Cir. 2005) (“The court's obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances.”). The closure of St. Francis would significantly reduce the price at which it could be sold. To insure that St. Francis is sold as a going-concern through the successful completion of the Sale, the bidding procedures proposed by the Debtors are modified as set forth below.

**A. Strategic Global Management, Inc. and/or Related Persons and Entities  
Related Are Disqualified from Participating in the Auction**

The instant Sale is necessary only because the sale to Strategic Global Management, Inc. (“SGM”) did not close (the “SGM Sale”). [Note 4] The Debtors are currently pursuing an action for damages against SGM based upon its failure to close (the “SGM Adversary”). In that action, the Debtors allege, among other things, that SGM lacked the financial wherewithal to complete the SGM Sale.

The Bidding Procedures require the Debtors to screen all Bids to determine whether they constitute Qualified Bids. A Bid is not a Qualified Bid unless it is accompanied by sufficient information establishing the Bidder's financial wherewithal to consummate the Sale. In view of the necessity that the Winning Bidder promptly close the Sale, the Debtors' ability to assess the financial wherewithal of Bidders is critical.

The SGM Adversary makes it very difficult, if not impossible, for the Debtors to determine whether SGM is a Qualified Bidder. SGM would be reluctant to provide the Debtors information regarding its finances, knowing that such information could be used against it in the SGM Adversary. Absent access to SGM's financial information, the Debtors would not be able to accurately assess SGM's financial ability to close the Sale.

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An Auction in which SGM was allowed to participate, where the Debtors cannot meaningfully evaluate SGM's financial wherewithal, is not likely to result in the estates receiving maximum value for the Purchased Assets. SGM is disqualified from participating in the Auction.

SGM has not filed any papers in connection with the Bidding Procedures Motion. This does not prevent the Court from disqualifying SGM from participating in the Auction. "[T]he statutes governing the sale of assets of bankruptcy estates are intended to protect the creditors of such estates and not prospective purchasers." *In re HST Gathering Co.*, 125 B.R. 466, 468 (W.D. Tex. 1991). A potential bidder such as SGM "is not within the 'zone of interests intended to be protected' under the bankruptcy statutes and regulations." *Id.* Applying this principle, the *HST Gathering* court upheld the bankruptcy court's refusal to accept a bid tendered in connection with an auction. The court held that the disappointed bidder lacked standing to appeal because he was "not a person whose interest was intended to be protected by the bankruptcy statutes or regulations." *Id.*; see also *Kabro Assocs. v. Colony Hill Assocs.* (*In re Colony Hill Assocs.*), 111 F.3d 269, 273 (2d Cir. 1997) ("[A]n unsuccessful bidder—whose only pecuniary loss is the speculative profit it might have made had it succeeded in purchasing property at an auction—usually lacks standing to challenge a bankruptcy court's approval of a sale transaction."); *Stark v. Moran* (*In re Moran*), 566 F.3d 676, 682 (6th Cir. 2009) ("A frustrated bidder lacks bankruptcy appellate standing when he merely alleges that he would have profited from his desired purchase, and does not allege, for instance, that fraud or impropriety prevented the estate from accepting his higher bid such that creditors would not receive as great a recovery as they would have had the estate accepted the higher bid.").

The Court's concerns regarding SGM's participation in the Auction also apply to persons and entities affiliated with SGM. In the SGM Adversary, Debtors assert that various persons and entities affiliated with SGM facilitated SGM's alleged misrepresentations and are liable for SGM's allegedly wrongful conduct. Like SGM, such persons and entities would be reluctant to provide financial information to the Debtors that could potentially be used against them in the SGM Adversary. Disqualification applies to the following persons and entities:

- 1) Any person or entity directly or indirectly related to or affiliated with SGM;
- 2) Any person or entity that directly or indirectly governs or controls, or is controlled or governed by either (a) SGM or (b) any person or entity related to or affiliated with SGM;

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- 3) Any person or entity that directly or indirectly uses SGM as an instrumentality or conduit in the conduct of its business, or is used by SGM as an instrumentality or conduit in the conduct of its business; and
- 4) Any person or entity that is a shareholder, subsidiary, or alter-ego of either (a) SGM or (b) any entity related to or affiliated with SGM.

**B. Conditions Precedent to Closing**

The Court has not had the opportunity to review the Draft APA, which has not yet been filed. The Court recognizes that under the Bidding Procedures, the final form of the APA is subject to negotiation. To provide a framework for such negotiations, the Court provides the following guidance with respect to the types of APA provisions that are most likely to result in successful completion of the Sale. The Court's overriding objective is to prevent a bidder who later experiences buyer's remorse from attempting to withdraw from its obligation to close the Sale.

The Bidding Procedures state that the Purchased Assets will be transferred on an "as is, where is" basis, with all faults, and without representations or warranties of any kind ...." Bidding Procedures at ¶ 3. The Bidding Procedures also provide that "[n]o party may conduct any additional due diligence after" the April 3, 2020 Bid Deadline. *Id.* at ¶ 7.

Consistent with these provisions, the Court will likely not approve any APA provision allowing the Winning Bidder to withdraw based upon flaws or defects it discovers in the Purchased Assets after the Bid Deadline. Provisions allowing withdrawal based upon conditions asserted by the California Attorney General—including provisions similar to § 8.6 of the APA between the Debtors and SGM—will also likely not be approved.

Conditions precedent to closing are disfavored and should be limited to the extent possible. The Court understands that certain conditions precedent are inevitable in the context of the sale of a large hospital. Acceptable conditions precedent include provisions relating to the transfer of Medicare and Medi-Cal Provider Agreements and other necessary regulatory approvals. Conditions precedent relating to the operational condition of the Purchased Assets are disfavored and will not be approved absent compelling reasons.

**C. UnitedHealthcare's Objection is Sustained**

In the bidding procedures order entered in connection with the SGM Sale (the "SGM Bidding Procedures Order"), the Court ordered the Debtors to provide



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UnitedHealthcare written notice of an irrevocable designation as to whether the Debtors' contracts with UnitedHealthcare would be assumed and assigned. Such designation was to be provided within 48 hours after the conclusion of the auction. SGM Bidding Procedures Order at ¶ 7 [Doc. No. 1572]. The Court reasoned that notice within 48 hours of the auction would provide UnitedHealthcare at least 70 days' notice prior to the closing of the SGM Sale of the treatment of its contracts. On July 11, 2019, the Court granted UnitedHealthcare's motion to compel the Debtors' compliance with the SGM Bidding Procedures Order. Specifically, the Court ordered the Debtors to provide UnitedHealthcare an irrevocable designation as to the assumption and assignment of its contracts by no later than July 17, 2019. *See* Doc. Nos. 2694 and 2713.

The Court sees no reason why UnitedHealthcare should not be provided the same notice in connection with the instant Sale as it was provided in connection with the SGM Sale. Debtors shall provide UnitedHealthcare an irrevocable designation with respect to the assumption and assignment of UnitedHealthcare's contracts within 48 hours of the conclusion of the Auction. If no Auction is held, the notice shall be provided by no later than April 9, 2020, at 10:00 a.m.—48 hours after the date and time scheduled for the commencement of the Auction.

**D. The Rights of SEIU-UHW and U.S. Bank, N.A. Are Preserved**

The Service Employees International Union, United Healthcare Workers-West ("SEIU-UHW") represents approximately 895 individuals employed at St. Francis and is party to a collective bargaining agreement with St. Francis (the "SEIU-UHW CBA"). SEIU-UHW reserves its right to object, at the Sale Hearing, to the treatment of the SEIU-UHW CBA.

The Court finds that the treatment of the SEIU-UHW CBA is an issue more appropriately addressed at the Sale Hearing. At this point the identity of the Winning Bidder and the proposed treatment of the SEIU-UHW CBA is unknown. SEIU-UHW's right to assert objections with respect to the SEIU-UHW CBA at the Sale Hearing is preserved.

U.S. Bank, National Association ("U.S. Bank") asserts a security interest in a substantial portion of the Purchased Assets. U.S. Bank supports the Bidding Procedures Motion but has not reviewed the proposed form of order approving the Motion. U.S. Bank reserves its right to raise issues concerning the form of the Bidding Procedures Order at the hearing.

In the event that U.S. Bank and the Debtors cannot resolve issues with respect to

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the form of the Bidding Procedures Order, U.S. Bank may raise such issues at the hearing.

**E. The Bidding Procedures Are Approved**

The Bidding Procedures, subject to the modifications set forth above, are approved. The following timeline shall apply (all times are prevailing local time) [Note 5]:

- 1) Wednesday, February 26, 2020: Service of Bidding Procedures, Auction, and Sale Notice.
- 2) Friday, April 3, 2020, at 5:00 p.m.: Bid Deadline for Qualified Bids.
- 3) Friday, April 3, 2020, at 5:00 p.m.: Deadline for counterparties to Assumed Executory Contracts to object to (a) the sufficiency of the Cure Amount or (b) the assumption and assignment of the Assumed Executory Contract.
- 4) Tuesday, April 7, 2020, at 10:00 a.m.: Auction.
- 5) Wednesday, April 8, 2020, at 5:00 p.m.: Deadline to file objections to the approval of the Winning Bid and the Backup-Up Bid. Replies to any such objections may be presented at the Sale Hearing.
- 6) Thursday, April 9, 2020, at 10:00 a.m.: Sale Hearing.

**III. Conclusion**

Based upon the foregoing, the Bidding Procedures Motion is GRANTED to the extent set forth herein.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Capitalized terms not defined herein have the meaning set forth in the Bidding Procedures Motion.

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**Note 2**

This summary contains only the most significant provisions of the Bidding Procedures. Parties should consult the Bidding Procedures (attached to the Bidding Procedures Motion as Ex. 1) for a complete list of (a) the requirements that bidders must satisfy to participate in the auction and (b) the rules governing the auction.

**Note 3**

The Consultation Parties are the Official Committee of Unsecured Creditors and the Prepetition Secured Creditors. Bidding Procedures at ¶ 1.

**Note 4**

Background information on the SGM Sale is set forth in the Court's *Final Ruling Denying SGM's Motion to Stay Adversary Proceeding* [Doc. No. 29, Adv. No. 2:20-ap-01001-ER] and is not restated here.

**Note 5**

The Court has adopted the timeline proposed by the Debtors.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:20-10348 Audrey J Barnard**

**Chapter 7**

**#1.00** Hearing  
RE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 BMW 5 Series 530e iPerformance Sedan 4D . (Skigin, Cheryl)

Docket 9

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL OF MOTION FILED 2-19-20**

**Tentative Ruling:**

- NONE LISTED -

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

Audrey J Barnard

Represented By  
Eliza Ghanooni

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

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**2:20-10799 Annemarie Jowell**

**Chapter 7**

**#2.00** HearingRE: [7] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 FORD EXPLORER, VIN 1FM5K7BH1HGC06146 . (Wang, Jennifer)

Docket 7

**Tentative Ruling:**

2/27/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Annemarie Jowell

Represented By  
Marc A Duxbury

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#1.00** Hearing  
RE: [31] Motion to Dismiss Adversary Proceeding 2nd Amended Complaint

Docket 31

**Tentative Ruling:**

3/2/2020

For the reasons set forth below, the Motion to Dismiss **DENIED**. Defendant shall file an Answer to the Second Amended Complaint by no later than **March 17, 2020**.

**Pleadings Filed and Reviewed:**

- 1) Second Amended Complaint Objecting to Discharge Pursuant to 11 U.S.C. § 523(a)(2)(A) and (6) [Doc. No. 29] (the "Complaint")
- 2) Motion for Order Dismissing Second Amended Complaint Pursuant to Federal Rule of Civil Procedure § 12(b)(6) and Federal Rule of Bankruptcy Procedure § 7012(b) [Doc. No. 31] (the "Motion")
  - a) Amended Notice of Hearing [Doc. No. 41]
- 3) Opposition to Debtor's Motion to Dismiss Second Amended Complaint Pursuant to Rule 12(b)(6) [Doc. No. 45] (the "Opposition")
- 4) Defendant's Reply to Opposition to Motion to Dismiss Second Amended Complaint Under FRCP 12(b)(6) [Doc. No. 46] (the "Reply")

**I. Facts and Summary of Pleadings**

On March 6, 2008, Miguel Hernandez Cruz (the "Plaintiff") filed a complaint in the Los Angeles Superior Court (the "State Court") against Shamin Ahemmed (the "Defendant") and North End Pizzeria, asserting claims for wage and hour violations (the "State Court Complaint"). On June 16, 2009, the State Court entered judgment in favor of Plaintiff and against Defendant and North End Pizzeria (the "State Court Judgment"). The State Court Judgment provides that Defendant and North End Pizzeria are jointly and severally liable to Plaintiff in the amount of \$107,100 for uncompensated overtime, \$71,260 for uncompensated double time hours, and \$124,866 in prejudgment interest.

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On June 17, 2019, Defendant filed a voluntary Chapter 7 petition. On September 23, 2019, Plaintiff timely filed a *Complaint Objecting to Discharge Pursuant to 11 U.S.C. § 523(a)(6)* [Doc. No. 1] (the "Complaint"). After Plaintiff filed a motion to dismiss the Complaint for failure to state a claim upon which relief could be granted, Defendant filed a *First Amended Complaint Objecting to Discharge Pursuant to 11 U.S.C. § 523(a)(2)(A) and (6)* [Doc. No. 12] (the "First Amended Complaint") as of right, pursuant to Civil Rule 15(a)(1)(B).

On January 23, 2020, the Court granted Defendant's motion to dismiss the First Amended Complaint, but gave Plaintiff leave to amend. *See* Doc. No. 39. The Court found that Plaintiff's claims under § 523(a)(2)(A) and (a)(6) were inadequately pleaded, because the First Amended Complaint incorporated the State Court Complaint by reference, rather than alleging specific facts that plausibly established Defendant's liability. *See* Doc. No. 27.

On January 20, 2020, Plaintiff filed the operative *Second Amended Complaint Objecting to Discharge Pursuant to 11 U.S.C. § 523(a)(2)(A) and (6)* [Doc. No. 29] (the "Second Amended Complaint"). The Second Amended Complaint alleges that the indebtedness established by the State Court Judgment is non-dischargeable pursuant to § 523(a)(2)(A) and (6). The material allegations of the Second Amended Complaint may be summarized as follows:

On December 13, 2005, Plaintiff became employed at Defendant's restaurant, North End Pizzeria. Complaint at ¶ 6. To induce Plaintiff to take the job and remain employed at North End Pizzeria, Defendant represented to Plaintiff that Defendant would pay Plaintiff overtime and double time wages as required by California law, and that Defendant would provide Plaintiff meal and rest breaks in accordance with California law. *Id.*

Defendant made these representations for the purpose of deceiving Plaintiff, and he knew the representations were false at the time they were made. *Id.* at ¶ 8. During the eight years he was employed at North End Pizzeria, Plaintiff routinely worked 50–60 hours per week. *Id.* Defendant failed to pay Plaintiff overtime wages and failed to provide Plaintiff the meal and rest breaks required under California law. *Id.* Instead, Defendant falsified Plaintiff's time records to misrepresent Plaintiff's actual work hours, in order to create the appearance that Plaintiff had been properly paid. *Id.* at ¶ 7.

Plaintiff justifiably relied on Defendant's representations that he would be paid the wages he was owed under California law. *Id.* at ¶ 9. Plaintiff is not educated and was



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unaware of California labor laws until near the end of his employment. *Id.* When Plaintiff became aware that he was not being paid the wages he was owed, Plaintiff confronted Defendant. *Id.* Defendant refused to pay Plaintiff overtime wages, knowing that Plaintiff needed to keep the job to support his family. *Id.* Defendant told Plaintiff that if he wanted to keep the job he would not be paid overtime wages. *Id.* Defendant told Plaintiff that if Plaintiff was fired, he would be unable to obtain employment elsewhere. *Id.* In addition, Defendant became angry and ripped the timekeeping machine out of the wall and threw it in the trash, nearly striking Plaintiff. *Id.* at ¶ 10.

**Summary of Papers Filed in Connection with the Motion**

Defendant moves to dismiss the Complaint for failure to state a claim upon which relief can be granted, pursuant to Civil Rule 12(b)(6). Defendant makes the following arguments in support of the Motion:

The Second Amended Complaint's allegations are not plausible. Neither the State Court Action, the Complaint, or the First Amended Complaint alleged that Defendant falsified time records, ripped the timekeeping machine out of the wall and threw it at Plaintiff, and threatened Plaintiff that he would not be able to find work elsewhere if he did not continue working at North End Pizzeria. Plaintiff concocted these new allegations in response to the Court's ruling granting the Defendant's motion to dismiss the First Amended Complaint.

Plaintiff has failed to allege facts showing that Defendant committed willful and malicious injury. The facts alleged show at most a breach of contract. Indebtedness arising from a breach of contract does not fall within the scope of § 523(a)(6) unless the contractual breach is also accompanied by tortious conduct.

Plaintiff makes the following arguments in opposition to the Motion:

There is no merit to Defendant's argument that the Second Amended Complaint's allegations are not plausible merely because they were not pleaded in prior complaints. Defendant's assertion that Plaintiff must have concocted these allegations in response to the Court's ruling on Defendant's prior motion to dismiss is nothing more than speculation.

The Second Amended Complaint contains sufficient factual allegations to support a reasonable inference that Defendant is liable under § 523(a)(2)(A) and (a)(6).

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The State Court Complaint contained a cause of action for fraud. The State Court entered judgment for Plaintiff on all claims asserted in the State Court Complaint. The State Court's finding of Defendant's liability for fraud is entitled to preclusive effect.

Defendant makes the following arguments in reply to Plaintiff's opposition:

Plaintiff's contention that the State Court found that Defendant engaged in fraud is not correct. The State Court's May 26, 2009 Minute Order makes no reference to fraud, and the State Court Judgment that was entered to memorialize the Minute Order contains no mention of fraud.

The Second Amended Complaint contradicts itself. The Second Amended Complaint alleges that at the commencement of the employment relationship, Defendant informed Plaintiff that Plaintiff would be paid overtime wages. The Second Amended Complaint then alleges that near the end of the employment relationship, Plaintiff became aware of his entitlement to overtime wages, at which time Plaintiff confronted Defendant. The Second Amended Complaint alleges that Plaintiff did not confront Defendant earlier because he was ignorant of California labor law. Plaintiff could not have been ignorant of the law if, as alleged earlier, Defendant had induced Plaintiff to take the job by telling Plaintiff that he would be paid overtime wages.

## **II. Findings and Conclusions**

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.' A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citations omitted). To state a plausible claim for relief, a complaint must satisfy two working principles:

First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitations of the elements of a cause of action, supported by mere conclusory statements, do not suffice.... Second, only a complaint that states a plausible claim for relief survives a motion to dismiss. Determining whether a complaint states a plausible claim for relief will ... be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. But where the well-pleaded facts do not permit the court to infer more than the

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mere possibility of misconduct, the complaint has alleged—but it has not "show[n]"—"that the pleader is entitled to relief."

*Id.* (citing Civil Rule 8(a)(2)).

Although the pleading standard Civil Rule 8 announces “does not require ‘detailed factual allegations,’ ... it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.... A pleading that offers ‘labels and conclusions’ or a ‘formulaic recitation of the elements of a cause of action will not do.’ Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

**A. The Second Amended Complaint States a Claim Under § 523(a)(2)(A)**

Section 523(a)(2)(A) provides: "A discharge under section 727 ... of this title does not discharge an individual debtor from any debt for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition."

To state a claim for relief under § 523(a)(2)(A), a complaint must plausibly allege facts sufficient to enable the Court to draw the reasonable inference that the Defendant (1) made a representation (2) that the Defendant knew was false (3) for the purpose of deceiving the Plaintiff, and that (4) the Plaintiff relied upon the representation and (5) sustained damages as the proximate result of the misrepresentation having been made. *Ghomeshi v. Sabban (In re Sabban)*, 600 F.3d 1219, 1222 (9th Cir. 2010).

The Second Amended Complaint states a claim under § 523(a)(2)(A). The Second Amended Complaint alleges that Defendant induced Plaintiff to work for him by promising Plaintiff that he would be paid overtime wages in accordance with the law, but then subsequently failed to pay Plaintiff overtime wages even though Plaintiff routinely worked 50–60 hours per week. The Second Amended Complaint further alleges that Defendant falsified Plaintiff's time records to make it appear as though Plaintiff was being paid the wages he was owed. These allegations support a reasonable inference that from the outset of the employment relationship, Defendant never intended to pay Plaintiff the wages he was owed; that Defendant falsely represented otherwise to convince Plaintiff to take the job; and that Plaintiff justifiably relied upon Defendant's false representations to his detriment.

In his reply papers, Defendant argues for the first time that the allegations of the Second Amended Complaint are not plausible because they are contradictory.

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Defendant points to the allegation that at the outset of the employment relationship, Defendant represented to Plaintiff that Plaintiff would be paid overtime wages. Defendant maintains that this allegation contradicts the allegation that Plaintiff did not confront Defendant regarding nonpayment of overtime wages until much later, because Plaintiff was ignorant of the law.

Local Bankruptcy Rule ("LBR") 9013-1(g)(4) prohibits the introduction of new evidence or arguments in reply papers. LBR 9013-1(g)(4) is a codification of the Ninth Circuit's well-established "general rule that [litigants] cannot raise a new issue for the first time in their reply briefs." *Martinez-Serrano v. I.N.S.*, 94 F.3d 1256, 1259 (9th Cir. 1996); *see also Daghlian v. DeVry University, Inc.*, 461 F. Supp. 2d 1121, 1143 n. 37 (C.D. Cal. 2006) ("It is improper for the moving party to 'shift gears' and introduce new facts or different legal arguments in the reply brief than (those that were] presented in the moving papers."). Introduction of new arguments in reply papers deprives the opposing party of the opportunity to respond, which violates due process.

Because Defendant's argument regarding alleged contradictions in the Second Amended Complaint was raised only in Defendant's reply papers, the Court does not consider the argument. Even if the Court were to consider the argument, the Court does not find that the Second Amended Complaint's allegations contradict each other in a manner that renders the Complaint implausible. It is conceivable that Defendant could have represented to Plaintiff that Plaintiff would receive overtime wages, and that this representation could have induced Plaintiff to take the job. Yet if Plaintiff was ignorant of the law, this representation would not necessarily have been sufficient to put him on notice of the exact circumstances in which he was entitled to receive overtime pay. Thus, Plaintiff could have been aware of Defendant's alleged promise to pay overtime wages, while simultaneously not being aware that Defendant was allegedly breaking that promise.

The Court rejects Defendant's contention that certain allegations in the Second Amended Complaint are not plausible because they were not previously pleaded. The Complaint and the First Amended Complaint were very brief because they incorporated the State Court Complaint by reference. Plaintiff set forth the more detailed allegations in the Second Amended Complaint after the Court advised Plaintiff that a pleading incorporating the State Court Complaint by reference did not provide Defendant sufficient notice of the misconduct alleged. Contrary to Defendant's suggestion, the lack of detailed allegations in the prior pleadings does not suggest that Plaintiff concocted the allegations in bad faith to avoid dismissal of the

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Chapter 7

action.

The parties devote substantial attention to an issue that is not relevant to the instant Motion—whether the State Court found that Defendant committed fraud, and whether such a finding, if any, is entitled to preclusive effect. As the Ninth Circuit has explained, a non-dischargeability action requires consideration of two distinct issues: first, a determination of whether the Defendant is indebted to the Plaintiff; and second, a determination of whether the indebtedness is non-dischargeable. *Banks v. Gill Distribution Centers, Inc.*, 263 F.3d 862, 868 (9th Cir. 2001). Here, the State Court Judgment establishes the indebtedness. This dischargeability action will determine whether such indebtedness will be excepted from Defendant's discharge. One possible basis for a finding of non-dischargeability is a fraudulent representation within the meaning of § 523(a)(2)(A). However, the factual allegations of the Second Amended Complaint state a claim for relief under § 523(a)(2)(A) regardless of any findings made by the State Court concerning fraud. At a later stage in the litigation, any findings made by the State Court concerning fraud could potentially assist Plaintiff in proving his case. But in the context of a motion to dismiss, the only issue is whether the Second Amended Complaint sets forth allegations plausibly showing that Plaintiff is entitled to relief.

**B. The Second Amended Complaint States a Claim Under § 523(a)(6)**

"Section 523(a)(6) excepts from discharge debts arising from a debtor's 'willful and malicious' injury to another person or to the property of another. The 'willful' and 'malicious' requirements are conjunctive and subject to separate analysis." *Plyam v. Precision Development, LLC (In re Plyam)*, 530 B.R. 456, 463 (9th Cir. B.A.P. 2015) (internal citations omitted).

An injury is "willful" when "a debtor harbors 'either subjective intent to harm, or a subjective belief that harm is substantially certain.' The injury must be deliberate or intentional, 'not merely a deliberate or intentional act that leads to injury.'" *Id.* at 463 (internal citations omitted). When determining intent, there is a presumption that the debtor knows the natural consequences of his actions. *Ormsby v. First Am. Title Co. of Nevada (In re Ormsby)*, 591 F.3d 1199, 1206 (9th Cir. 2010). An injury is "malicious" if it "involves '(1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse.'" *Carrillo v. Su (In re Su)*, 290 F.3d 1140, 1146–47 (9th Cir. 2002) (internal citations omitted). "Within the plain meaning of this definition, it is the wrongful act that must be committed intentionally rather than the injury itself." *Jett v. Sicroff (In re Sicroff)*, 401

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F.3d 1101, 1106 (9th Cir. 2005).

The Second Amended Complaint alleges facts supporting a reasonable inference that Defendant intended to harm Plaintiff by failing to pay Plaintiff the overtime wages he was owed. The Second Amended Complaint alleges that when confronted about the unpaid wages, Defendant became angry, threatened Plaintiff, and tore the timekeeping machine out of the wall. These allegations state a claim under § 523(a) (6).

**III. Conclusion**

Based upon the foregoing, the Motion is **DENIED**. Defendant shall file an Answer to the Second Amended Complaint by no later than **March 17, 2020**. As previously ordered, a Status Conference shall take place on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Represented By  
Lawrence R Fieselman  
Julie J Villalobos

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**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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Los Angeles  
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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#1.00 HearingRE: [4073] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And Third Omnibus Motion To Reject, Pursuant To 11 U.S.C. § 365(a), Hospital Services And Vendor Agreements With St. Vincent Medical Center; Memorandum Of Points And Authorities; Declaration Of Richard G. Adcock

Docket 4073

**Tentative Ruling:**

3/3/2020

For the reasons set forth below, the Motion is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Third Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Hospital Services and Vendor Agreements with St. Vincent Medical Center [Doc. No. 4073] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding [the Motion] [Doc. No. 4144]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' Chapter 11 cases are being jointly administered. *See* Doc. No. 17.

On January 9, 2020, the Court granted the Debtors' emergency motion for authorization to close St. Vincent Medical Center ("St. Vincent"). *See* Doc. No. 3934 (the "Closure Order"). Pursuant to the Closure Order, emergency services were discontinued as of January 9, 2020, the dialysis center was closed as of January 13, 2020, all inpatients were discharged or transferred as of January 18, 2020, all outpatient visits ceased as of January 22, 2020, and all transplant candidates were transferred as of January 23, 2020. *See* Doc. No. 3982 (status report describing closure of St. Vincent).

The Debtors seek authorization to reject certain executory contracts and unexpired



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leases (collectively, the "Agreements") pursuant to § 365(a), effective as of January 31, 2020. The Agreements include (a) certain private payor contracts under which St. Vincent provided health care services to members enrolled in the health benefit plans offered by the contract counterparties in exchange for reimbursement by the contract counterparties to St. Vincent and (b) certain managed care vendor contracts under which St. Vincent negotiated rates for supplies, equipment, and services provided by the contract counterparties on behalf of patients capitated (*i.e.*, assigned) to St. Vincent under separate managed care plans. The Debtors assert that the Agreements provide no further benefit to the estates given St. Vincent's closure.

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Section 365(a) provides that the Debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Castetter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the

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Agreements. As a result of the closure of St. Vincent, the Agreements provide no benefit to the estates. The Debtors' continued performance under the Agreements would burden the estates with unnecessary expenses. Rejection of the Agreements shall be effective as of **January 31, 2020**.

The deadline for counterparties to the Agreements to file a proof of claim arising from the rejection of the applicable Agreement, pursuant to Bankruptcy Rule 3002(c)(4), shall be **May 1, 2020** (the "Rule 3002(c)(4) Claims Bar Date"). Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by counterparties by no later than **March 18, 2020**. Debtors shall file a proof of service of such notice by no later than **March 18, 2020**.

Notwithstanding the possible applicability of Bankruptcy Rule 6006(d), the order granting the Motion shall take effect immediately.

### **III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** in its entirety. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

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**Verity Health System of California, Inc.**

Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**Chapter 11**

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** HearingRE: [4055] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And Second Omnibus Motion To Reject, Pursuant To 11 U.S.C. § 365(A), Certain St. Vincent Medical Center Hospital Executory Contracts And Unexpired Leases; Memorandum Of Points And Authorities; Declaration Of Richard G. Adcock

Docket 4055

**Tentative Ruling:**

3/3/2020

For the reasons set forth below, the Motion is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Second Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain St. Vincent Medical Center Hospital Executory Contracts and Unexpired Leases [Doc. No. 4055] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4054 and 4055 [Doc. No. 4095]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' Chapter 11 cases are being jointly administered. *See* Doc. No. 17.

On January 9, 2020, the Court granted the Debtors' emergency motion for authorization to close St. Vincent Medical Center ("St. Vincent"). *See* Doc. No. 3934 (the "Closure Order"). Pursuant to the Closure Order, emergency services were discontinued as of January 9, 2020, the dialysis center was closed as of January 13, 2020, all inpatients were discharged or transferred as of January 18, 2020, all outpatient visits ceased as of January 22, 2020, and all transplant candidates were transferred as of January 23, 2020. *See* Doc. No. 3982 (status report describing closure of St. Vincent).

The Debtors seek authorization to reject certain executory contracts and unexpired

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leases (collectively, the "Agreements") pursuant to § 365(a), effective as of January 31, 2020. The Debtors assert that the Agreements, which all pertained to the operation of St. Vincent, provide no further benefit to the estates given St. Vincent's closure.

No opposition to the Motion is on file.

## II. Findings and Conclusions

Section 365(a) provides that the Debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Casterter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreements. As a result of the closure of St. Vincent, the Agreements provide no benefit to the estates. The Debtors' continued performance under the Agreements would burden the estates with unnecessary expenses. Rejection of the Agreements shall be effective as of **January 31, 2020**.

The deadline for counterparties to the Agreements to file a proof of claim arising from the rejection of the applicable Agreement, pursuant to Bankruptcy Rule 3002(c)

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(4), shall be **May 1, 2020** (the “Rule 3002(c)(4) Claims Bar Date”). Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by counterparties by no later than **March 18, 2020**. Debtors shall file a proof of service of such notice by no later than **March 18, 2020**.

Pursuant to the Debtors’ request, the deadline for equipment lessors to retrieve equipment located at St. Vincent shall be **March 31, 2020** (the “Retrieval Deadline”). The Debtors shall provide notice of the Retrieval Deadline so that it is actually received by the equipment lessors by no later than **March 9, 2020**. Debtors shall file a proof of service of such notice by no later than **March 9, 2020**. Equipment lessors shall coordinate with the Debtors’ personnel with respect to the retrieval of their equipment. Any equipment not retrieved by the Retrieval Deadline shall be deemed abandoned to the estates.

Notwithstanding the possible applicability of Bankruptcy Rule 6006(d), the order granting the Motion shall take effect immediately.

### **III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** in its entirety. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge’s Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

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Los Angeles  
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Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

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**#3.00** HearingRE: [4054] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And First Omnibus Motion To Reject, Pursuant To 11 U.S.C. § 365(A), Certain St. Vincent Medical Center Hospital Executory Contracts And Unexpired Leases; Memorandum Of Points And Authorities; Declaration Of Richard G. Adcock

Docket 4054

**Tentative Ruling:**

3/3/2020

For the reasons set forth below, the Motion is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and First Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain St. Vincent Medical Center Hospital Executory Contracts and Unexpired Leases [Doc. No. 4054] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4054 and 4055 [Doc. No. 4095]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' Chapter 11 cases are being jointly administered. *See* Doc. No. 17.

On January 9, 2020, the Court granted the Debtors' emergency motion for authorization to close St. Vincent Medical Center ("St. Vincent"). *See* Doc. No. 3934 (the "Closure Order"). Pursuant to the Closure Order, emergency services were discontinued as of January 9, 2020, the dialysis center was closed as of January 13, 2020, all inpatients were discharged or transferred as of January 18, 2020, all outpatient visits ceased as of January 22, 2020, and all transplant candidates were transferred as of January 23, 2020. *See* Doc. No. 3982 (status report describing closure of St. Vincent).

The Debtors seek authorization to reject certain executory contracts and unexpired



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leases (collectively, the "Agreements") pursuant to § 365(a), effective as of January 31, 2020. The Debtors assert that the Agreements, which all pertained to the operation of St. Vincent, provide no further benefit to the estates given the closure of St. Vincent.

No opposition to the Motion is on file.

## II. Findings and Conclusions

Section 365(a) provides that the Debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Castetter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreements. As a result of the closure of St. Vincent, the Agreements provide no benefit to the estates. The Debtors' continued performance under the Agreements would burden the estates with unnecessary administrative expenses. Rejection of the Agreements shall be effective as of **January 31, 2020**.

The deadline for counterparties to Agreements to file a proof of claim arising from

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the rejection of the applicable Agreement, pursuant to Bankruptcy Rule 3002(c)(4), shall be **May 1, 2020** (the “Rule 3002(c)(4) Claims Bar Date”). Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by counterparties no later than **March 18, 2020**. Debtors shall file a proof of service of such notice by no later than **March 18, 2020**.

Pursuant to the Debtors’ request, the deadline for equipment lessors to retrieve equipment located at St. Vincent shall be **March 31, 2020** (the “Retrieval Deadline”). The Debtors shall provide notice of the Retrieval Deadline so that it is actually received by the equipment lessors no later than **March 9, 2020**. Debtors shall file a proof of service of such notice by no later than **March 9, 2020**. Equipment lessors shall coordinate with the Debtors’ personnel with respect to the retrieval of their equipment. Any equipment not retrieved by the Retrieval Deadline shall be deemed abandoned to the estates.

Notwithstanding the possible applicability of Bankruptcy Rule 6006(d), the order granting the Motion shall take effect immediately.

### **III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** in its entirety. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge’s Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

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**#4.00** Hearing  
RE: [4051] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And Motion To Reject, Pursuant To 11 U.S.C. § 365(a), Risk-Sharing Agreement With SVIPA; Memorandum Of Points And Authorities; Declaration Of Richard G. Adcock

Docket 4051

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 2-20-20**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:19-18234 Russell Gando Osio**

**Chapter 7**

**#5.00** Hearing re [55] Motion Objecting to Debtor's Amended Exemption.

Docket 0

**Tentative Ruling:**

3/3/2020

For the reasons stated below, the objection to the Debtor's amended claim of exemptions is SUSTAINED-in-part with respect to the settlement proceeds, and OVERRULED-in-part with respect to certain tax refunds.

**Pleadings Filed and Reviewed:**

- 1) Chapter 7 Trustee's Notice of Motion and Motion to Debtor's Amended Exemption (the "Motion") [Doc. No. 55]
- 2) Debtor's Response to Chapter 7 Trustee's Notice of Motion and Motion to Debtor's Amended Exemption (the "Opposition") [Doc. No. 57]
- 3) Chapter 7 Trustee's Reply to Debtor's Response to Chapter 7 Trustee's Notice of Motion and Motion to Debtor's Amended Exemption (the "Reply") [Doc. No. 58]
- 4) Other relevant papers:
  - a) Amended Schedule A/B for Individual: Property [Doc. No. 54]
  - b) Amended Schedule C: The Property You Claimed as Exemption [Doc. No. 54]
  - c) Order Denying Debtor's Motion for Reconsideration [Doc. No. 48]
  - d) Chapter 7 Voluntary Petition [Doc. No. 1]

**I. Facts and Summary of Pleadings**

**Background**

Russell Gando Osio ("Debtor") commenced a voluntary chapter 7 petition on July 16, 2019 (the "Petition Date"). Sam S. Leslie was appointed as chapter 7 trustee (the "Trustee"). As indicated on Debtor's Schedule C, attached as Exhibit 2 of the Motion, the Debtor initially claimed exemptions under Code of Civil Procedure ("CCP") § 704.730. On January 17, 2020, the Debtor amended his commencement documents to disclose an interest in previously undisclosed tax refunds totaling \$1,143 (the "Tax Refunds"), and he modified his claimed exemptions from under CCP § 704.730 to §

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703.140 [Note 1]. The Debtor did not disclose the existence of the Tax Refunds on his initial petition or on subsequent amended schedules before January 17, 2020. The Trustee presently seeks an order sustaining his objection to Debtor's amended claim of exemptions for (a) the Tax Refunds and (b) \$29,657 of settlement proceeds paid to the estate. The exemptions at issue were collectively claimed under California's "wildcard" exemption, codified in CCP § 703.140(b)(5). The Debtor opposes the Motion in full.

Previously, on December 6, 2019, the Court sustained the Trustee's objection with respect to the Debtor's claimed homestead exemption under CCP § 704.730, thereby compelling turnover of certain real property (the "Property") [Note 2]. *See* Order Denying Debtor's Motion for Reconsideration [Doc. No. 48]. The Court's findings and conclusions with respect to the Motion for Reconsideration may be found in the Court's final ruling [Doc. No. 45] and will be omitted from this tentative ruling. On December 12, 2019, the Trustee filed an uncontested motion to approve a settlement agreement (the "Settlement Agreement") with the Debtor [Doc. No. 50] (the "9019 Motion"), which the Court granted on January 2, 2020 [Doc. No. 52]. In sum, the Settlement Agreement provides for the abandonment of the Property to the Debtor, in exchange for Debtor's payment of \$41,523.08 to the estate (the "Settlement Proceeds") [Note 3]. As of February 27, 2020, filed claims against the estate totaled \$91,888.41. *See* Claims Register.

The parties' principal points and arguments are summarized below.

**The Motion**

The Trustee filed the Motion on February 12, 2020 [Doc. No. 55]. Subsequent to the Court's approval of the Settlement Agreement, the Trustee asserts that he learned about the Debtor's interest in the Tax Refunds. Declaration of Sam S. Leslie ("Leslie Decl."), ¶ 17. According to the Trustee, it was only after demanding turnover of the Tax Refunds that the Debtor amended his commencement documents, therein claiming the exemptions above referenced. *Id.* at ¶ 18. The Trustee objects to the Debtor's amended wildcard exemptions on five (5) independent grounds.

The Motion first asserts that the Debtor waived his rights to claim exemptions under § 703.140 when he elected, and benefited from, exemptions under § 704.730. Based on the points asserted in the Motion, Trustee's position is that the Debtor

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utilized § 704.730 to his advantage by removing the Property from the reach of the estate. Motion at 10-11. The Trustee argues that because the abandonment of the Property is irreversible, the Debtor is attempting to reap a benefit under both exemption statutes by now claiming an exemption in the Settlement Proceeds.

Second, the Motion argues that the Debtor cannot claim an exemption in the Settlement Proceeds, as such assets did not exist on the Petition Date. In support, the Trustee cites to numerous cases which generally stand for the proposition that debtors' California exemptions can only be claimed in assets that existed as of the filing date. *See* Motion at 11. Accordingly, the Settlement Proceeds were not in "existence" at the time this petition was filed because such funds became part of the estate only after this Court approved the Settlement Agreement.

Third, the Trustee asserts that the Debtor will derive an unfair benefit from advancing two inconsistent positions as to the Settlement Proceeds, and therefore, the Debtor should be judicially estopped from claiming a wildcard exemption with respect to said assets. According to the Motion, California courts have previously applied estoppel doctrines to claimed exemptions, as determined by *Jefferson v. Tom*. *See* Motion at 12. The Motion articulates the elements of judicial estoppel that the Ninth Circuit Bankruptcy Appellate Panel adopted in *Wilcox v. Parker (In re Parker)*, 471 B.R. 570 (B.A.P. 9th Cir. 2012): a) a party has asserted clearly inconsistent positions, 2) the party asserting inconsistent positions persuaded the court of the earlier position, and 3) allowing inconsistent positions would derive an unfair advantage on opposing party.

Fourth, the Trustee also advances that the Debtor should be equitably estopped from claiming a wildcard exemption in the Tax Refunds. The Motion cites to *Simmons v. Ghaderi*, which provides that a party seeking to invoke equitable estoppel must show: "(a) a representation or concealment of material facts; (b) made with knowledge, actual or virtual, of the facts; (c) to a party ignorant, actually and permissibly, of the truth; (d) with the intention, actual or virtual, that the ignorant party act on it; and (e) that party was induced to act on it." Motion at 14 (quoting *Simmons v. Ghaderi*, 44 Cal. 4th 570, 584 (2008)). The Trustee submits that all five elements of equitable estoppel have been satisfied here. In short, the Trustee argues that Debtor's actions to conceal the existence of the Tax Refunds from the estate for over four months satisfy the first four elements of equitable estoppel. With respect to

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the element of inducement, the Trustee attests that had he been aware of the Tax Refunds, he would have "require[d] that the [Settlement Proceeds] also include[d] said Tax Refunds as part of any settlement agreement." Leslie Decl., ¶ 20. By not disclosing the Tax Refunds, the Trustee claims that the Debtor induced him to act differently. *Id.*

Last, the Trustee argues that the doctrine of laches prevents the Debtor's belated claim of wildcard exemptions. The Trustee reasons that laches is applicable here because the Debtor failed to disclose the Tax Refunds for over four months, and he only did so until after the Settlement Agreement was executed.

**The Opposition**

On February 19, 2020, the Debtor filed a timely opposition to the Motion [Doc. No. 57] (the "Opposition"). The Opposition begins by furnishing a lengthy compilation of facts concerning the Debtor's marital status, ownership of the Property, as well as Debtor's agreement to license part of the Property to his father's business. The Court largely views this restatement of facts, and any evidence in support thereof, as unnecessary and inapposite to the issues raised by the Trustee. As to his substantive arguments, the Debtor first counters that he has the absolute right to amend his schedules before the case is closed under FRBP 1009(a). The Debtor further claims that his former attorney is wholly responsible for the omission of the Tax Refunds as Debtor provided such documents at the time this case was filed. *See* Declaration of Russell Osio ("Osio Decl."), ¶ 6. The Debtor also contends that the Trustee is mistaken in claiming that Debtor does not have an interest in the Settlement Proceeds. The premise of Debtor's argument appears to be that he is entitled to an interest in the Settlement Proceeds by virtue that he is the Property's titleholder. Accordingly, the Debtor posits that the net equity in the Property was transmuted into the Settlement Proceeds, and therefore, he is entitled to claim such funds under the wildcard exemption. *See* Opposition at 8 ("Here, the equity was converted to cash, and although the cash proceeds equal to the net equity were transferred...[the Debtor] can still exempt his interest in the proceeds subject to any underlying state law.").

Next, the Debtor contends that the Trustee failed to establish each of the three elements of judicial estoppel. Debtor's response to the judicial estoppel argument was muddled and confusingly articulated; the following summary represents the Court's best understanding of the Debtor's points. The Debtor claims that the first and second



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element fail because he has an "absolute" right to amend his petition, and therefore, it is not possible for him to have an inconsistent position. The Debtor further retorts that it is actually the Trustee who successfully persuaded the Court of "inaccurate" facts concerning the Property. Opposition at 11. Finally, as to the fair advantage element, the Debtor maintains that he has not benefitted from the purported inconsistency because the Court previously denied his homestead exemption under § 704.730.

Debtor's arguments concerning equitable estoppel are more coherently briefed. In short, the Debtor submits that the Trustee failed to establish an intentional concealment of a material fact because the Debtor did not intentionally omit the Tax Refunds, but instead, his former attorney failed to include such information in Debtor's commencement documents. Moreover, the Trustee did not rely on Debtor's purported misstatements because the Trustee unilaterally calculated the Settlement Proceeds payable to the estate, and the Debtor paid this amount. For many of the points summarized above, the Debtor argues that the doctrine of laches is similarly inapplicable.

Finally, if the Court decides to sustain the Trustee's objection, the Debtor requests an evidentiary hearing to permit the Court to assess his credibility.

**The Trustee's Reply**

On February 25, 2020, the Trustee filed a reply to the Opposition [Doc. No. 58] (the "Reply"). In reply, the Trustee counters that the Debtor does not possess the absolute right to amend his schedules because the Supreme Court has previously held that any basis for denying a state-created exemption may be found in state law. *See* Reply at 3 (citing to *Law v. Siegel*, 134 S.Ct. 1188, 1196-97 (2014)). Therefore, the Trustee maintains that Debtor's wildcard exemptions may be disallowed by reference to estoppel principles recognized by California courts. The Reply largely reiterates the points initially asserted in the Motion with regard to these equitable doctrines. The Trustee also disputes the Debtor's characterization of the Settlement Proceeds as net equity of the Property. Trustee points out that Debtor seems to adopt the position that the Property was liquidated into cash, which was then utilized to satisfy Debtor's contractual obligations under the Settlement Agreement. The Trustee affirms that this suggestion is false. The Settlement Proceeds did not come from the Property because the Property belonged to the estate at the time such proceeds were paid. In sum, the Property and the Settlement Proceeds consist of two separate assets; and on the

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petition date, the former was part of the estate and the latter was not. *See Reply* at 4-5. In support of the Reply, the Trustee attaches the opinion delivered in *In re Gonzalez*, which provides a comprehensive discussion on state-created exemptions where a debtor's conduct has been objected to as inequitable. *See generally* No. 2:15-BK-25283-RK, 2017 WL 2787594, at \*8 (Bankr. C.D. Cal. June 27, 2017), *adhered to on reconsideration*, No. 2:15-BK-25283-RK, 2019 WL 1423080 (Bankr. C.D. Cal. Mar. 27, 2019).

## II. Findings and Conclusions

### A. The Debtor's Right to Amend Petition

Debtors have ample flexibility in the timing of an exemption claim. FRBP 1009(a) provides debtors the right to amend any "voluntary petition, list, schedule, or statement...as a matter of course at any time before the case is closed." This general right to amend includes the ability of debtors to amend their schedules to add or alter claimed exemptions. *See In re Arellano*, 517 B.R. 228, 229 (Bankr. S.D. Cal. 2014) (citing *Tyner v. Nicholson (In re Nicholson)*, 435 B.R. 622, 630 (B.A.P. 9th Cir. 2010) (abrogated on separate grounds)). However, the question of whether a debtor may amend his or her schedule to *claim* an exemption is separate from the question whether the exemption is *allowable*. *In re Gonzalez*, No. 2:15-BK-25283-RK, 2017 WL 2787594, at \*8 (emphasis in original) (internal citations omitted).

Therefore, the Debtor is entitled to amend his bankruptcy schedules before the case is closed, however, doing so does not necessarily mean that his newly claimed exemptions are allowable.

### B. The Debtor's Wildcard Exemption as to the Settlement Proceeds is Disallowed Based on California Law

A claimed exemption is "presumptively valid." *In re Diener*, 483 B.R. 196, 203 (B.A.P. 9th Cir. 2012) (citing *Carter v. Anderson (In re Carter)*, 182 F.3d 1027, 1029

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n.3 (9th Cir. 1999)). Once an exemption has been claimed, it is the objecting party's burden to prove by a preponderance of the evidence that the exemption is improper. *Id.* (citing FRBP 4003(c)); *In re Kelley*, 300 B.R. 11, 17 (9th Cir. BAP 2003). Initially, this means that the objecting party has the burden of production and the burden of persuasion. *In re Carter*, 182 F.3d at 1029 n.3. The objecting party must produce evidence to rebut the presumptively valid exemption. *Id.* If the objecting party can produce evidence to rebut the exemption, the burden of production then shifts to the debtor to come forward with unequivocal evidence to demonstrate that the exemption is proper. *Id.* The burden of persuasion, however, always remains with the objecting party. *Id.*

A debtor's right to claim particular exemptions and the amount of those exemptions is defined by California law, and not federal law. Under *Law v. Siegel*, the Supreme Court noted that "it is of course true that when a debtor claims a *state-created* exemption, the exemption's scope is determined by state law, which may provide that certain types of debtor misconduct warrant denial of the exemption." 134 S. Ct. at 1196-97. Accordingly, bankruptcy courts must look to state law in determining whether there is a basis to disallow an exception. *Gray v. Warfield*, 523 B.R. 170, 175 (B.A.P. 9th Cir. 2014). Amended Schedule C indicates that the Debtor claimed a state-created exemption. See Amended Schedule C [Doc. No. 54]. Bankruptcy courts in California have long recognized the application of equitable doctrines to state-created exemptions. See, e.g., *In re Steward*, 227 B.R. 895, 899 (B.A.P. 9th Cir. 1998) (applying estoppel principles to debtor's homestead exemption); *In re Gonzalez*, No. 2:15-BK-25283-RK, 2019 WL 1423080 at \*28 (denying homestead exemption on equitable estoppel grounds); *In re Gilman*, 608 B.R. 714, 730 (Bankr. C.D. Cal. 2019) (applying a number of equitable theories—unclean hands, estoppel by unjust enrichment, equitable estoppel, and laches—to a homestead exemption and concluding debtor was entitled to exemption); *In re Smith*, No. 1:10-BK-11054, 2017 WL 1457942, at \*4 (B.A.P. 9th Cir. Apr. 24, 2017) (finding that any equitable doctrines under California law could be applied to disallow an amended exemption).

The Trustee argues that the Debtor's amended wildcard exemption as to the Settlement Proceeds must be disallowed under the doctrines of judicial estoppel, equitable estoppel, and laches. The Court finds that the Trustee has satisfied his burden with respect to the doctrine of judicial estoppel. The purpose of judicial

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estoppel is to “protect the integrity of the judicial process.” *Gordon v. Nissan Motor Co.*, 170 Cal. App. 4th 1103, 1113 (2009). To invoke judicial estoppel under California law, a party must show: 1) the same party has taken two positions, 2) the positions were taken in a judicial or quasi-judicial proceeding, 3) the party was successful in asserting the first position (i.e., the tribunal accepted the earlier position as true), 4) the two positions are totally inconsistent; and 5) the first position was not taken as a result of ignorance, fraud, or mistake. *People v. Palmer*, 58 Cal. 4th 110, 117 (2013); see *In re Siller*, 427 B.R. 872, 886 (Bankr. E.D. Cal. 2010) (applying judicial estoppel, but holding reversed on separate grounds), *rev'd and remanded sub nom. Cotchett, Pitre & McCarthy v. Siller*, No. CIV S-10-0779 KJM, 2012 WL 1657620 (E.D. Cal. May 10, 2012).

The Court finds that all the elements of judicial estoppel are present, and the Debtor’s exemption is disallowed.

1. Two positions asserted in a judicial proceeding

This first element is satisfied because the Debtor has taken two distinct positions: first, on December 7, 2019, the Debtor executed the Settlement Agreement (Motion, Ex. 9), under which he was required to pay \$41,523.08 to the estate, and second, on January 17, 2020, the Debtor amended Schedule C to claim a wildcard exemption in the Settlement Proceeds in the sum of \$29,657 (Doc. No. 54). The second element does not merit an extended discussion—the Debtor asserted both positions in this bankruptcy case.

2. The party persuaded the tribunal to adopt the first position

The Court finds that the Debtor successfully asserted the earlier position. In the 9019 Motion, the Trustee represented to the Court that his compromise with the Debtor would “preserve assets and enhance the Estate...[and] [t]he Agreement avoids costly and risky litigation and results in certainty and substantial benefit to the Estate.” 9019 Motion at 6. The Debtor’s promise to willingly pay the Settlement Proceeds constituted a significant factor in the Court’s decision to approve the Settlement Agreement. See Order Approving Compromise of Controversy [Doc. No. 52], n. 1 (“[T]he Court determines that the Settlement is reasonable, adequate under the circumstances, and in the best interest of creditors.”). Moreover, given the Debtor’s

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limited administrable assets, the Settlement Agreement was viewed as highly beneficial to the estate and creditors. In sum, the Debtor successfully persuaded the Court of his earlier position, i.e. a promise to pay the Settlement Proceeds to the estate. Therefore, this element is satisfied.

3. The two positions are inconsistent

The Court also finds that the Debtor's positions are entirely inconsistent. Judicial estoppel may be applied when the inconsistency at issue yields an unfair advantage to the asserting party. *See Jhaveri v. Teitelbaum*, 176 Cal. App. 4th 740, 751 (2009) ("The judicial estoppel doctrine precludes a party from gaining a litigation advantage by espousing one position and then seeking a second advantage by taking an incompatible position."); Ann Taylor Schwing, *Judicial estoppel*, 2 Cal. Affirmative Def. § 34:18 (2d ed.) ("[T]he inconsistency must be one that is fundamentally unfair or lacking in good faith."). The Debtor asserted two inconsistent positions by agreeing to pay the estate \$41,523.08 for the abandonment of the Property and by later attempting to recover more than half of said sum. Unless the Court sustains the Trustee's objection, Debtor's amended exemption leaves only \$11,866 of the Settlement Proceeds to pay for administrative expenses and claims totaling over \$90,000. Stated differently, allowing Debtor to claim an amended exemption would enable him to circumvent the Settlement Agreement, inasmuch that the Property had been abandoned for substantially less than what the Debtor contractually promised to pay. This is a textbook example of an unfair advantage, at the detriment of the estate, that arises from the assertion of two inconsistent positions. This element is satisfied.

4. The first position was not asserted because of ignorance, fraud, or mistake

The Debtor, who was represented by counsel, entered into the Settlement Agreement following negotiations between the two parties. *See* Motion, Ex. 9 [Settlement Agreement] at 72 (page citations are to the pagination provided in the Motion). The Settlement Agreement further stipulates that each party "has read this entire Agreement...and executes it only after being fully advised by counsel...[and] fully understands the meaning of each term in this Agreement and fully understands that this Agreement is a full, final, complete and integrated Agreement..." *See id.* at 73. The Settlement Agreement is executed by both the Debtor and his former attorney.

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*See id.* at 75, 76. Furthermore, the Debtor has not claimed that the execution of the Settlement Agreement was based on ignorance, fraud, or mistake. Therefore, the Court determines that the Trustee has satisfied this element.

Based on the foregoing, the Court finds that the doctrine of judicial estoppel applies here. In the event that the Court sustains the Trustee's objection, the Debtor requests an evidentiary hearing to permit assessment of his credibility. However, none of the Court's factual findings above discussed require an assessment of the Debtor's credibility. The Court's determination is predicated on facts that can be readily ascertained from the papers, and to that extent, an evidentiary hearing is unnecessary. *See Tan Lao v. Avery*, No. 2:15-BK-27357-ER, 2017 WL 8186670, at \*7 (C.D. Cal. Aug. 15, 2017) (“[A]n evidentiary hearing is generally appropriate when there are disputed and material factual issues that the bankruptcy court cannot readily determine from the [written] record.”) (internal citations omitted); Local Bankruptcy Rule 9013-1(i)(1) (“The court may, *at its discretion*, in addition to or in lieu of declaratory evidence, require or allow oral examination of any declarant or any other witness.”) (emphasis added).

**C. The Debtor Failed to Rebut the Trustee's Argument in the Alternative**

The Trustee raised an alternative, but independent basis, to disallow Debtor's wildcard exemption given that the Settlement Proceeds and the Property are two distinct and separate assets. The Court is persuaded by the Trustee's argument, and finds that the burden of proof shifted onto the Debtor. In response, the Debtor argued that his interest in the Property's net equity was "transmuted" into the cash proceeds tendered to satisfy the Settlement Agreement. The Court is mystified by the Debtor's characterization of the Settlement Proceeds. At the time the Debtor tendered the Settlement Proceeds, the Court understands that the Property still belonged to the estate, and there is no evidence furnished that the Trustee approved the liquidation of the Property into cash. In short, the Debtor has not established that the Settlement Proceeds originated from the Property. Therefore, Debtor has failed to rebut the Trustee's position. *See In re Carter*, 182 F.3d at 1029 n.3 (“If the objecting party can produce evidence to rebut the exemption, the burden of production then shifts to the debtor to come forward with unequivocal evidence to demonstrate that the exemption is proper.”).

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**D. The Trustee Did Not Establish the Disallowance of Debtor's Exemption of the Tax Refunds under California Law**

The Motion advances two separate equitable grounds to disallow the Debtor's wildcard exemption of the Tax Refunds: equitable estoppel and laches. With respect to both equitable doctrines the asserting party must prove detriment or prejudice occasioned by the party to be estopped. More specifically, one of the elements needed to invoke equitable estoppel requires the asserting party to show a change in position in reliance to the other party's conduct, causing prejudice or detriment to the party asserting estoppel. *See State Compensation Ins. Fund v. Workers' Comp. Appeals Bd.*, 40 Cal. 3d 5, 16 (1985). To invoke the doctrine of laches, a party must show that it suffered prejudice as a result of an unreasonable delay. *See Conti v. Bd. of Civil Serv. Commissioners*, 1 Cal. 3d 351, 360 (1969) ("It is not so much a question of the lapse of time as it is to determine whether prejudice has resulted.").

The Court is unconvinced that the Trustee has proven that the element of detrimental inducement caused by the Debtor's amended exemption of the Tax Refunds. The Trustee's argument is essentially that Debtor's concealment of the Tax Refunds induced him to settle for a lower dollar amount, which resulted in the estate's detriment. *See* Motion at 16-17. However, the terms of the Settlement Agreement are exclusively confined to issues concerning the Property, and the dollar amount of the settlement consideration corresponds exactly to the Trustee's calculation of Debtor's net equity in the Property. Leslie Decl., ¶ 13. Moreover, there is no indication that the Trustee ever regarded the settlement as lacking or inadequate; and in fact, the Settlement Agreement plainly provides that the parties "engaged in negotiation." Motion, Ex. 9 at 71. The Court is not persuaded either that a) the Tax Refunds would have played a significant role in settlement discussions, or b) that the estate would have secured a substantial amount of such assets in connection with the Settlement Agreement. With regard to laches, the argument that Debtor's delayed amendment caused prejudice is incorrect because it relies on the premise that the Tax Refunds are non-exempt assets. For the reasons discussed above, the Debtor has the right to amend his schedules as a matter of course. In sum, the Court is unconvinced that the Trustee established prejudice, and therefore, it finds that laches and equitable estoppel are inapplicable. For the same reasons, the Court declines to apply judicial estoppel as to the exemption of the Tax Refunds. *Judicial estoppel, supra*, at § 34:18 ("The court retains discretion in the application of judicial estoppel, and the fact that a litigant can

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establish all of the specific elements of the doctrine does not necessarily lead to application of the doctrine.”).

The Court further rejects the theory that the Debtor somehow waived his right to claim § 703.710 exemptions. In accordance with *Siegel*, any theory of waiver must be defined by state law, and the Motion fails to cite any authority supporting the application of waiver under California law. Through its independent research, the Court discovered *In re Arellano*, a post-*Siegel* decision, where the bankruptcy court overruled a trustee’s objection against a debtor’s amended exemption of previously undisclosed income tax refunds, due to the trustee’s failure to assert an objection based in state law. *See* 517 B.R. at 232.

For the reasons stated above, the Debtor’s amended exemption claim as to the Tax Refunds will stand.

### **III. Conclusion**

Based on the foregoing, the Trustee’s objection to the Debtor’s amended claimed exemptions is SUSTAINED-in-part with respect to the Settlement Proceeds, and OVERRULED-in-part with respect to the Tax Refunds. Any relief requested but not specifically discussed above is denied.

The Trustee shall submit a conforming order, incorporating this tentative ruling by reference, within seven (7) days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor represents the dollar amount of the Tax Refunds as \$1,015. *See* Opposition at 6.



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**Note 2:** Capitalized terms not defined herein shall have the meaning ascribed in the Court's final ruling on the Debtor's Motion for Reconsideration [Doc. No. 45].

**Note 3:** The dollar sum to be paid to the estate consisted of Debtor's estimated equity in the Property net of all secured claims and sale costs. Leslie Decl., ¶ 13.

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

Russell Gando Osio

Represented By  
Peter M Lively

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Toan B Chung

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**#100.00** HearingRE: [104] Motion For Contempt Notice of Motion and Motion for Order to Show Cause Why Debtor Should Not Be Held in Civil Contempt of Court for Failing to Comply with Court Order with Proof of Service (Haes, Chad)

Docket 104

**Tentative Ruling:**

3/3/2020

For the reasons set forth below, the Debtor shall pay the Trustee \$1,000 in compensatory contempt sanctions by no later than **June 29, 2020**. By separate order, the Court will require Debtor's counsel to show cause why he should not be required to disgorge \$1,000 in attorneys' fees to the Debtor.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Order to Show Cause Why Debtor Should Not be Held in Civil Contempt of Court for Failing to Comply with Court Order Compelling Attendance at 341(a) Meeting of Creditors Including the Imposition of Compensatory Sanctions and Coercive Sanctions, Including Without Limitation, the Imposition of Monetary Coercive Sanctions and Issuance of a Body Detention Order [Doc. No. 104] (the "Motion")
- 2) Declaration of Khachik Akhkashian Re: Response to Order to Show Cause Why Debtor Should Not be Held in Civil Contempt with Court Order Compelling Attendance at 341(a) [Doc. No. 105]
- 3) Declaration of Bahram Zendedel Re: Response to Order to Show Cause Why Debtor Should Not be Held in Civil Contempt with Court Order Compelling Attendance at 341(a) [Doc. No. 108]
- 4) Notice of Hearing Re: Responses Filed by Debtor to Motion for Order to Show Cause Why Debtor Should Not be Held in Civil Contempt of Court for Failing to Comply with Court Order Compelling Attendance at 341(a) Meeting of Creditors Including the Imposition of Compensatory Sanctions and Coercive Sanctions, Including Without Limitation, the Imposition of Monetary Coercive Sanctions and Issuance of a Body Detention Order [Doc. No. 112]
- 5) Reply in Support of Motion for Order to Show Cause Re: Contempt Against

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Debtor for Failure to Appear at 341(a) Examination [Doc. No. 119]

### **I. Facts and Summary of Pleadings**

Bahram Zendedel (the "Debtor") filed a voluntary Chapter 7 petition on January 18, 2019. On November 21, 2019, upon the motion of the Chapter 7 Trustee (the "Trustee"), the Court ordered the Debtor to appear at a continued § 341(a) meeting of creditors to be held on December 19, 2019. *See* Doc. No. 99 (the "Order Granting Motion to Compel"). The Order Granting Motion to Compel was served upon the Debtor and the Debtor's counsel. *See* Doc. No. 101.

The Trustee's motion to compel the Debtor's attendance at the meeting of creditors (the "Motion to Compel") was necessary because the Debtor failed to appear at continued meetings of creditors scheduled on October 2, 2019 and October 21, 2019. The Debtor appeared at the hearing on the Motion to Compel through counsel, and advised the Court that the Debtor's non-appearance was the result of a communication error with the Trustee's office.

The Debtor failed to appear at the December 19, 2019 meeting of creditors as ordered by the Court. The Debtor appeared at the subsequent meeting of creditors, which was conducted on January 17, 2020.

The Trustee moves for an order holding the Debtor in civil contempt for his failure to comply with the Court's order requiring his appearance at the December 19, 2019 meeting of creditors. The Debtor and his counsel both filed declarations in opposition to the Motion. Counsel offers the following explanation for the Debtor's non-appearance:

After the Motion to Compel Hearing on November 19, 2019, the Court on the record stated the Motion would be granted and an order would be forthcoming. I was under the impression that a *notice of continuance of the meeting of creditors* would be delivered, and that was an assumption that I mistakenly made. Had I read the [Order Granting Motion to Compel] more carefully, I would have noticed that the continued meeting of creditor's date was in the order itself and I failed to calendar said date accordingly.

The moment I noticed that [the instant Motion] was filed, I immediately checked my e-mail to see how I missed the date of the notice of the continued meeting of creditors. I realized that there was no notice of a continued meeting of creditors so I went back to the [Order Granting Motion to Compel] signed and entered by the Court on November 21, 2019. It was then that I actually

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CONT...

**Bahram Zendedel**

**Chapter 7**

saw the continuance date for the meeting of creditors. I have to take complete responsibility for this because the Debtor was never made aware of the continued meeting of creditors being set on December 19, 2019....

I sincerely apologize to the Court. It's very embarrassing to me to miss said date and I know we get hammered with multiple e-mails every day with notices and information and I failed to carefully read the [Order Granting Motion to Compel].... I genuinely believed that a notice of the continued meeting of creditors was going to be served for me to calendar.

Akhkashian Decl. at ¶¶ 8–12 and 22.

The Debtor states that he did not attend the December 19, 2019 meeting of creditors because he "did not receive notice from my attorney, or anyone for that matter, that my appearance was required on December 19, 2019." Debtor's Decl. at ¶ 7.

In reply to the declarations filed by the Debtor and his counsel, the Trustee asserts that civil contempt sanctions should be imposed against the Debtor to compensate the estate for the costs of compelling the Debtor's attendance at the meeting of creditors. The Trustee notes that the Order Granting Motion to Compel was served upon the Debtor via first-class mail, and upon the Debtor's counsel via electronic notice, and that the Order unambiguously required the Debtor to appear for examination on December 19, 2019.

## **II. Findings and Conclusions**

### **A. The Court Imposes Compensatory Contempt Sanctions of \$1,000 Upon the Debtor**

"The standard for finding a party in civil contempt is well settled: 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." *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178, 1191 (9th Cir. 2003). "The burden then shifts to the contemnors to demonstrate why they were unable to comply." *F.T.C. v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir. 1999). "A person fails to act as ordered by the court when he fails to take all the reasonable steps within his power to insure compliance with the court's order." *Rosales v. Wallace (In re Wallace)*, 490 B.R. 898, 905 (B.A.P. 9th Cir. 2013).

Here, the Order Granting Motion to Compel provided in relevant part: "The Debtor shall appear at a continued meeting of creditors to be held on December 19, 2019, at 9:00 a.m., in Room 5 of Suite 1850, 915 Wilshire Blvd., Los Angeles,

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California ...." Order Granting Motion to Compel at ¶ 2. By failing to appear at the December 19, 2019 meeting of creditors, the Debtor violated a specific and definite order of the Court.

The Debtor states that he received no notice of the Order Granting Motion to Compel. However, the Order was sent via first-class mail to the Debtor at the address listed on his bankruptcy schedules. *See* Doc. No. 101 (Certificate of Notice, issued by the Bankruptcy Noticing Center, establishing that the Order was served upon the Debtor).

“Under the ‘mailbox rule,’ ‘upon proof that mail is properly addressed, stamped and deposited in an appropriate receptacle, it is presumed to have been received by the addressee in the ordinary course of the mails.’” *Hasso v. Mozsgai (In re La Sierra Fin. Servs., Inc.)*, 290 B.R. 718, 733 (B.A.P. 9th Cir. 2002) (internal citations omitted). “[T]he presumption created by the mailbox rule can be rebutted by specific evidence of nonreceipt ....” *In re Todd*, 441 B.R. 647, 652 (Bankr. D. Ariz. 2011). However, a “bare declaration of non-receipt” is not sufficient to rebut the presumption. *In re Williams*, 185 B.R. 598, 600 (B.A.P. 9th Cir. 1995). Instead, the “presumption can only be overcome by clear and convincing evidence that the mailing was not, in fact, accomplished.” *Moody v. Bucknum (In re Bucknum)*, 951 F.2d 204, 207 (9th Cir. 1991).

The Debtor states, in a conclusory fashion, that he did not receive the Order Granting Motion to Compel. *See* Debtor’s Decl. at ¶ 7 (“I did not receive notice from my attorney, or anyone for that matter, that my appearance was required on December 19, 2019.”). The Debtor’s declaration testimony does not contain evidence of nonreceipt that is sufficiently specific to rebut the mailbox rule’s presumption.

In sum, the Debtor received the Order Granting Motion to Compel but failed to appear at the December 19, 2019 meeting of creditors. The Debtor’s failure to comply with the Order warrants the imposition of contempt sanctions to compensate the Trustee for the costs of bringing the instant Motion, which was necessary to insure that the Debtor would attend future meetings of creditors.

The Trustee requests an opportunity to present additional evidence as to the amount of compensatory contempt sanctions that should be awarded. Additional evidence would be of no assistance to the Court. The Court has reviewed the Motion and the record of the Trustee’s efforts to compel the Debtor’s attendance at the meeting of creditors. Based upon that review, the Court finds that a compensatory contempt sanction of \$1,000 is warranted. The Debtor shall pay the \$1,000 contempt sanction to the Trustee by no later than **June 29, 2020**.

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**B. The Court Will Require the Debtor's Counsel to Show Cause Why He Should Not Be Required to Disgorge \$1,000 in Attorneys' Fees to the Debtor**

The Trustee has not sought sanctions against the Debtor's counsel. The Court could not hold the Debtor's counsel in contempt for violating the Order Granting Motion to Compel. That Order pertains only to the Debtor and does not direct the Debtor's counsel to do anything.

The Debtor received the Order Granting Motion to Compel and was required to comply with it. However, the Debtor was also relying upon his counsel to advise him of his responsibilities in connection with his bankruptcy petition, and in this instance counsel failed to inform the Debtor of the date of the continued meeting of creditors. *See Akhkashian Decl. at ¶ 13* ("I have to take complete responsibility for this because the Debtor was never made aware of the continued meeting of creditors being set on December 19, 2019.").

Section 329(a) requires any attorney representing a debtor to file "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 . . . ." Section 329(b) provides that "[i]f such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the return of any such payment, to the extent excessive, to the entity that made such payment." Bankruptcy Rule 2017(a) further provides:

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 . . . to an attorney for services rendered or to be rendered is excessive.

"Once a question has been raised about the reasonableness of an attorneys' fees under section 329, the attorney bears the burden of establishing that the fee is reasonable." 3 Collier on Bankruptcy ¶ 329.01 (16th ed. 2019).

Here, the Debtor paid his counsel \$2,350 to represent him in this Chapter 7 case. *See Debtor's Attorney's Disclosure of Compensation Arrangement in Individual Chapter 7 Case [Doc. No. 25]*. Debtor failed to attend three different meetings of creditors as a result of counsel's failure to advise Debtor of the date and time of the meetings. By separate order, the Court will require counsel to show cause why he

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should not be required to disgorge \$1,000 in attorneys' fees to the Debtor.

**III. Conclusion**

Based upon the foregoing, the Debtor shall pay the Trustee \$1,000 in compensatory contempt sanctions by no later than **June 29, 2020**. By separate order, the Court will require Debtor's counsel to show cause why he should not be required to disgorge \$1,000 in attorney's fees to the Debtor. The Court will prepare and enter appropriate orders.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

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**2:19-24846 Franklin Ivan Ferrey**

**Chapter 7**

**#1.00** HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3176 Westwood Lane, Occidental, CA 95465 . (Ferry, Sean)

Docket 9

**Tentative Ruling:**

3/6/2020

Debtor's case was very likely hijacked by an unrelated third party. Debtor does not appear to have an interest in the subject property, or be in privity of contract with the property's original borrower or the Movant, the loan servicer on the property's original promissory note.

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Court finds that there is good cause to grant relief pursuant to 11 U.S.C. § 362(d)(1). Franklin Ivan Ferrey (the "Debtor") filed this voluntary Chapter 7 case on December 20, 2019. On March 1, 2007, Mira Herman (the "Borrower") executed a security instrument secured by real property located at 3176 Westwood Lane, Occidental, CA, 95465 (the "Property"). *See* Motion, Ex. A. As indicated on Exhibit 1, page 38, of the Motion [Doc. No. 9-1], the Borrower purportedly granted the Debtor a \$3,750 interest in the Property by way of a grant deed. The grant deed is dated May 7, 2018. *See id.* Furthermore, an additional interest in the Property was purportedly transferred through a grant deed in favor of two other individuals. *See* Motion, Supporting Documents at 56 [Doc. No. 9-1]. Accordingly, one of these parties filed an unrelated bankruptcy case implicating an interest in the Property. *See*



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*id.* at 59. Therefore, this petition was part of a scheme to delay, hinder, and defraud creditors, which involved the transfer of all or part ownership of, or other interest in, the Property without the consent of Movant or court approval.

Notwithstanding the foregoing, Debtor's commencement documents do not reflect that he possesses any interests in real property. Doc. No. 1. The record further indicates that Debtor has no contractual obligations, or is otherwise in privity of contract, with either the Borrower or the Movant. In sum, the Court cannot conclude that Debtor himself has actually engaged in any bad faith conduct. *See In re Dorsey*, 476 B.R. 261, 267 (Bankr. C.D. Cal. 2012) ("[Section] 362(d)(4) 'does not require that it be the debtor who has created the scheme or carried it out, or even that the debtor be a party to the scheme at all.'" (internal citations omitted).

For the reasons set forth above, the Motion is GRANTED to permit Movant, its successors, transferees and assigns, to enforce its remedies with respect to the Property in accordance with applicable law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Franklin Ivan Ferrey

Pro Se

**Trustee(s):**

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**CONT... Franklin Ivan Ferrey**  
Timothy Yoo (TR)

Pro Se

**Chapter 7**

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**2:20-10325 Juan Manuel Lince and Teresa Lince**

**Chapter 7**

**#2.00** HearingRE: [17] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Chevrolet Spark, VIN: KL8CB6SA5JC477659 . (Wang, Jennifer)

Docket 17

**Tentative Ruling:**

3/6/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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**CONT... Juan Manuel Lince and Teresa Lince**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Juan Manuel Lince	Pro Se
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**Joint Debtor(s):**

Teresa Lince	Pro Se
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**Trustee(s):**

Timothy Yoo (TR)	Pro Se
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#3.00** Hearing  
RE: [4040] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: .

Docket 4040

**Tentative Ruling:**

3/6/2020

No appearances required. The *Stipulation Between Debtors Verity Health System of California, Inc., St. Francis Medical Center, and Renee Capizzi Granting Motion for Relief from the Automatic Stay* [Doc. No. 4150] (the "Stipulation") is **APPROVED**. Debtors shall submit an order on the Stipulation within seven days of the hearing.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:20-11293 Marisol Bonilla**

**Chapter 7**

**#4.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 3627 GARNET STREET #9, TORRANCE, CA 90503 . (Cruz, Joseph)

Docket 8

**Tentative Ruling:**

3/6/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set on a shortened notice in accordance with Judge Robles' procedures. Oppositions, if any, will be considered at the hearing.

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2). The stay is terminated as to the Debtor and the Debtor's bankruptcy estate with respect to the Movant, its successors, transferees and assigns. Movant may enforce its remedies to obtain possession of the property in accordance with applicable law, but may not pursue a deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

The Movant filed an unlawful detainer action on November 14, 2019, which is scheduled for trial on March 16, 2020.

This Motion has been filed to allow the Movant to proceed with the unlawful detainer proceeding in state court. The unlawful detainer proceeding may go forward because the Debtor's right to possess the premises must be determined. This does not change simply because a bankruptcy petition was filed. See In re Butler, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002).

The Court notes that Debtor's case was dismissed on February 24, 2020. The Court vacates the dismissal for the limited purpose of entering an order on this Motion.

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**CONT... Marisol Bonilla**

**Chapter 7**

This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Marisol Bonilla

Pro Se

**Trustee(s):**

John P Pringle (TR)

Pro Se

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**2:18-12437 Wardine Bridges**

**Chapter 7**

Adv#: 2:19-01336 Rund v. Rosborough

**#1.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01336. Complaint by Jason M. Rund against Mary Rosborough. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Chung, Toan)

fr: 12-10-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 10:00 A.M.**

**Tentative Ruling:**

12/6/2019

The Clerk of the Court entered Defendant's default on November 27, 2019. Doc. No. 13. The Chapter 7 Trustee has engaged in settlement discussions with one of the Defendant's relatives, Dominic Anderson. The parties have agreed upon a settlement amount, but it is unclear whether Anderson can fund the settlement.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The deadline for Anderson to demonstrate to the Trustee's satisfaction that he has the ability to fund the contemplated settlement is **January 31, 2020**.
- 2) If Anderson demonstrates the ability to fund the settlement, the Trustee shall file a Bankruptcy Rule 9019 Motion by no later than **February 14, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 3) If Anderson cannot fund the settlement, the Trustee shall file a Motion for Default Judgment by no later than **February 14, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 4) A continued Status Conference shall be held on **March 10, 2020, at 10:00 a.m.** The Trustee shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event the matter is resolved, the continued Status Conference will go off calendar.



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**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Wardine Bridges	Pro Se
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**Defendant(s):**

Mary Rosborough	Pro Se
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**Plaintiff(s):**

Jason M. Rund	Represented By Toan B Chung
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**Trustee(s):**

Jason M Rund (TR)	Represented By Toan B Chung
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**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01255 Ehrenberg, Chapter 7 Trustee v. Hsu, an Individual

**#2.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01255. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against George Hsu, an Individual. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

fr. 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-10-20**

**Tentative Ruling:**

1/13/2020

The Clerk of the Court entered Defendant's default on December 4, 2019. Doc. No. 20. A Motion for Default Judgment is set for hearing on February 4, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **March 10, 2020, at 10:00 a.m.**
- 2) In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

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determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

George Hsu, an Individual

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

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**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01256 Ehrenberg, Chapter 7 Trustee v. Hsu

**#3.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01256. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lillian Yu-Li Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

fr: 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-10-20**

**Tentative Ruling:**

1/13/2020

The Clerk of the Court entered Defendant's default on December 20, 2019. Doc. No. 27. A Motion for Default Judgment is set for hearing on February 4, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **March 10, 2020, at 10:00 a.m.**
- 2) In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Fu Kong Inc.**

**Chapter 7**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lillian Yu-Li Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20111 Jeremy Wyatt LeClair**

**Chapter 7**

Adv#: 2:18-01276 LeClair v. United States Of America (Treasury Department, Int

**#4.00 Status Hearing**

RE: [1] Adversary case 2:18-ap-01276. Complaint by Jeremy Wyatt LeClair against United States Of America (Treasury Department, Internal Revenue Service Division) . (Charge To Estate). Nature of Suit: (66 (Dischargeability - 523(a)(1),(14),(14A) priority tax claims)). Adversary transferred-in from Western District of North Carolina (Charlotte) and Adversary Proceeding #: 18-03043 to Central District of California (Los Angeles). (Ly, Lynn) Additional attachment(s) added on 8/30/2018 (Ly, Lynn). Additional attachment(s) added on 8/30/2018 (Ly, Lynn).

fr: 12-11-18; 5-14-19; 9-10-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Defendant(s):**

United States Of America (Treasury

Pro Se

**Plaintiff(s):**

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-22393 Sharon R Williams**

**Chapter 7**

Adv#: 2:19-01050 Miller v. Hancox

**#5.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01050. Complaint by Elissa D. Miller against Donnell Hancox. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(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))) (Simons, Larry)

fr. 5-14-19; 6-11-19; 10-15-19; 12-10-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 3-6-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Sharon R Williams

Pro Se

**Defendant(s):**

Donnell Hancox

Pro Se

**Plaintiff(s):**

Elissa D. Miller

Represented By  
Larry D Simons

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01111 Danny's Silver Jewelry Inc., a California cor v. Zendedel

**#6.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01111. Complaint by Danny's Silver Jewelry Inc., a California corporation, dba Danny's Silver, Inc., dba Danny's Silver & Gold against Bahram Zendedel. 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)) (Tabibi, Nico)

fr: 8-13-19; 10-15-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Danny's Silver Jewelry Inc., a

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-16657 Ronald K. Perry**

**Chapter 7**

Adv#: 2:19-01335 Huang v. Perry

**#7.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01335. Complaint by Sander Huang against Ronald K. Perry. false pretenses, false representation, actual fraud),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(14 (Recovery of money/property - other)) (Madala, Naveen)

fr. 12-10-19

Docket 1

\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-21-20

**Tentative Ruling:**

12/6/2019

The Clerk of the Court entered Defendant's default on November 12, 2019. Doc. No. 16. Having reviewed Plaintiff's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") by no later than **January 31, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are VACATED.
- 3) A continued Status Conference shall be held on **March 10, 2020, at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear,**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Ronald K. Perry**

**Chapter 7**

**please first contact opposing counsel to inform them of your intention to do so.**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Ronald K. Perry

Represented By  
Steven B Lever

**Defendant(s):**

Ronald K. Perry

Pro Se

**Plaintiff(s):**

Sander Huang

Represented By  
Naveen Madala

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#8.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01503. Complaint by Ann Tardaguila against Gregory Tardaguila. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Mitnick, Eric)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01505 Strategic Funding Source, Inc. v. Tardaguila

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01505. Complaint by Strategic Funding Source, Inc. against Gregory Tardaguila. 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)) (Harvey, Brian)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 3-6-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Strategic Funding Source, Inc.

Represented By  
Brian T Harvey

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01441 United International Mortgage Solutions, Inc. v. KAPLAN & SIMON, LLP,

**#10.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01441. Complaint by United International Mortgage Solutions, Inc. against KAPLAN & SIMON, LLP, A Limited Liability Partnership. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

FR. 12-10-19

Docket 1

\*\*\* VACATED \*\*\* REASON: DISMISSED 12/31/19

**Tentative Ruling:**

12/6/2019

The Clerk of the Court entered Defendant's default on November 15, 2019. Doc. No. 11. Having reviewed Plaintiff's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") by no later than **January 31, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are VACATED.
- 3) A continued Status Conference shall be held on **March 10, 2020, at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear,**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... United International Mortgage Solutions, Inc. Chapter 11**

**please first contact opposing counsel to inform them of your intention to do so.**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

United International Mortgage	Represented By Matthew D. Resnik Roksana D. Moradi-Brovia
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**Defendant(s):**

KAPLAN & SIMON, LLP, A	Pro Se
All Persons Or Entities Unknown	Pro Se
DOES 1 to 10 Inclusive	Pro Se

**Plaintiff(s):**

United International Mortgage	Represented By Matthew D. Resnik
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01377 Packaging Corporation of America v. Bonert et al

**#11.00** Status Conference re: Collection Actions re: Notice of Removal of Civil Action to United States Bankruptcy Court. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer))

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Packaging Corporation of America	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01378 Coastal Carriers, LLC v. Bonert et al

**#12.00 Status Hearing**

re: Collection Actions [1] Adversary case 2:19-ap-01378. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

DOES 1-10

Pro Se

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Coastal Carriers, LLC

Represented By  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#13.00** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01405. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Represented By  
Lawrence M Jacobson

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

Beefam, LLC

Represented By  
Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Capitol Distribution Company, LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

**#14.00**      Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01406. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Represented By  
Lawrence M Jacobson

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01394 Elissa D. Miller, solely in her capacity as chapte v. Grandmaison

**#100.00** Pre-Trial Conference

RE: [1] Adversary case 2:18-ap-01394. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Grandmaison Construction, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

fr. 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE RE:  
SETTLEMENT 6-16-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Grandmaison Construction, Inc., a

Represented By  
Mark T Young

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01399 Elissa D. Miller, solely in her capacity as chapt v. Old World Precast, Inc., a

**#101.00** Pre-Trial Conference

RE: [1] Adversary case 2:18-ap-01399. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Old World Precast, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

fr: 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE RE  
SETTLEMENT 6-16-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Old World Precast, Inc., a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01407 Elissa D. Miller, solely in her capacity as chapte v. HD Supply Construction

**#102.00** Pre-Trial Conference  
RE: [1] Adversary case 2:18-ap-01407. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against HD Supply Construction Supply Group, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: Status Conference to monitor  
consummation of the settlement 6-16-20 at 10:00 a.m.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

HD Supply Construction Supply

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... QUIGG LA11, LLC**

Jessica Vogel

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

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11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01417 Elissa D. Miller, solely in her capacity as chapte v. JC Drywall Designs, Inc.,

**#103.00** Pre-Trial Conference

RE: [1] Adversary case 2:18-ap-01417. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against JC Drywall Designs, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

FR. 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 3-5-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

JC Drywall Designs, Inc., a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami

**United States Bankruptcy Court  
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**CONT... QUIGG LA11, LLC**

Jessica Vogel

**Chapter 7**

**United States Bankruptcy Court  
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**Tuesday, March 10, 2020**

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11:00 AM

**2:17-12677 Green Jane Inc**

**Chapter 7**

Adv#: 2:19-01061 Rosendo Gonzalez, Chapter 7 Trustee v. TCG Assets, Inc., a Colorado

**#104.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01061. Complaint by Rosendo Gonzalez, Chapter 7 Trustee against TCG Assets, Inc., a Colorado corporation, TCG International Holdings, Inc., a Florida corporation, Michael B. Citron, an individual, Kenneth R. Morris, an individual, Law Office of Kenneth R. Morris LLC, a Colorado limited liability company, The Ulzheimer Group LLC, a Georgia limited liability, John Ulzheimer, an individual, Nicholas Moffat, an individual. (Charge To Estate). Complaint for 1. Avoidance of Transfers Pursuant to 11 U.S.C. § 544; 2. Avoidance of Avoidable Transfers Pursuant to 11 U.S.C. § 548; 3. Recovery on Account of Avoided Transfers Pursuant to 11 U.S.C. § 550(a); 4. Turnover of Funds of Estate Pursuant to 11 U.S.C. § 542; and 5. Breach of Fiduciary Duty 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)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Melissinos, C)

FR. 7-16-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Defendant(s):**

TCG Assets, Inc., a Colorado

Pro Se

TCG International Holdings, Inc., a

Pro Se

Michael B. Citron, an individual

Pro Se

**United States Bankruptcy Court  
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**CONT... Green Jane Inc**

**Chapter 7**

Kenneth R. Morris, an individual	Pro Se
Law Office of Kenneth R. Morris	Pro Se
The Ulzheimer Group LLC, a	Pro Se
John Ulzheimer, an individual	Pro Se
Nicholas Moffat, an individual	Pro Se

**Plaintiff(s):**

Rosendo Gonzalez, Chapter 7

Represented By  
C John M Melissinos

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos



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Central District of California  
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11:00 AM

**2:17-13016 Sharp Edge Enterprises**

**Chapter 7**

Adv#: 2:18-01163 Leslie v. Reihanian et al

**#105.00** Cont'd Pre-Trial Conference  
RE: [10] Amended Complaint by Christian T Kim on behalf of Sam S. Leslie, Sam S Leslie (TR) against Leon Reihanian. (RE: related document(s)1 Adversary case 2:18-ap-01163. Complaint by Sam S. Leslie against Leon Reihanian. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)) filed by Plaintiff Sam S. Leslie. (Kim, Christian)

fr. 6-11-19; 7-16-19

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Sharp Edge Enterprises

Represented By  
Peter A Davidson

**Defendant(s):**

Leon Reihanian

Represented By  
Raymond H. Aver

DOES 1-20, inclusive

Pro Se

Abraham Reihanian, as Trustee of

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Christian T Kim  
James A Dumas Jr

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Central District of California  
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**Hearing Room 1568**

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11:00 AM

**CONT... Sharp Edge Enterprises**

**Chapter 7**

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Christian T Kim  
James A Dumas Jr

**United States Bankruptcy Court  
Central District of California  
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Courtroom 1568 Calendar**

**Tuesday, March 10, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20374 Jenny Melendez**

**Chapter 7**

Adv#: 2:18-01429 Wesley H. Avery, Chapter 7 Trustee of the Bankrupt v. Jenny Melendez, an

**#106.00** Pre-Trial Conference  
RE: [1] Adversary case 2:18-ap-01429. Complaint by Wesley H. Avery, Chapter 7 Trustee of the Bankruptcy Estate of Jenny Melendez against Jenny Melendez, an individual, Clara E. Melendez. (Charge To Estate). Trustee's Complaint for: 1) A Declaratory Judgment Regarding Property of the Bankruptcy Estate; 2) Turnover; 3) Injunctive Relief; and 4) Sale of a Property in Which a Non-Debtor Asserts an Interest Nature of Suit: (91 (Declaratory judgment)),(11 (Recovery of money/property - 542 turnover of property)),(72 (Injunctive relief - other)),(31 (Approval of sale of property of estate and of a co-owner - 363(h))) (Lin, Zi)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-14-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jenny Melendez

Represented By  
Randolph R Ramirez

**Defendant(s):**

Jenny Melendez, an individual

Pro Se

Clara E Melendez, an individual

Pro Se

DOES 1-20

Pro Se

**Plaintiff(s):**

Wesley H. Avery, Chapter 7 Trustee

Represented By  
Adjoa Anim-Appiah  
Zi Chao Lin

**Trustee(s):**

Wesley H Avery (TR)

Represented By

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**CONT...**

**Jenny Melendez**

Zi Chao Lin

**Chapter 7**

**United States Bankruptcy Court  
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**Tuesday, March 10, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-21250 Thomas Ernesto Merino**

**Chapter 7**

Adv#: 2:18-01460 Foreman v. Merino

**#107.00 Pre-Trial Conference**

RE: [1] Adversary case 2:18-ap-01460. Complaint by Star Rae Foreman against Thomas Ernesto Merino . 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)) (Del Mundo, Wilfredo) Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo). Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo).

**Plaintiff and Defendant shall appear at the Pretrial Conference in person.**

FR. 6-19-19; 2-11-20

Docket 1

**Tentative Ruling:**

3/9/2020

The Court has reviewed (a) the proposed Pretrial Orders submitted by Plaintiff Star Rae Foreman (“Foreman”) and Defendant Thomas Ernesto Merino (“Merino”) and (b) the entire record in this adversary proceeding. Based upon such review, the Court has developed the following Pretrial Order, which supersedes the pleadings and shall govern the course of trial of this cause, unless modified to prevent manifest injustice.

**A. Admitted Facts**

The following facts are admitted and require no proof:

- 1) On July 1, 2016, Foreman rented an apartment from Merino (the “Apartment”). The Apartment was one of several units located at 1343 West 40th Place, Los Angeles, CA 90804 (the “Property”). The Property was owned by Merino’s parents, German and Miriam Merino.
- 2) On May 30, 2017, Foreman filed an action against Merino in the Small Claims Division of the Los Angeles Superior Court (the “State Court Action”). The

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**Thomas Ernesto Merino**

**Chapter 7**

State Court Action alleged that Merino had failed to maintain the Apartment in a state of habitability and had harassed Foreman after she demanded that Merino take action to render the Apartment habitable.

- 3) At the time Foreman rented the Apartment from Merino, the Apartment was not in compliance with the requirements of the Los Angeles Municipal Code (the "LAMC"). The Apartment's non-compliance is established by a *Substandard Order and Notice of Fee* (the "Substandard Order") that was issued against the Property on July 27, 2017, by the Board of Building and Safety Commissioners of the City of Los Angeles. *See* Doc. No. 45 at pp. 27–30. The Substandard Order identified the following violations:
  - a) The Property is substandard due to illegal occupancy of the enclosed porch at the second floor and the accessory buildings as dwellings.
  - b) The Property is substandard due to hazardous electrical wiring.
  - c) The Property is substandard due to lack of adequate heating.
  - d) Smoke alarms are missing or disabled.
  - e) Carbon monoxide alarms are missing or disabled.
  - f) Electrical permit required for the relocation of the main electrical panel.
  - g) The accessory buildings were constructed and remodeled without the required permits and approvals.
  - h) The water heater is not connected to a venting system as required by the LAMC.
  - i) The yard is being used as a storage area in violation of the LAMC.
- 4) The Substandard Order required German and Miriam Merino to correct the violations.
- 5) At some time after renting the Apartment, Foreman demanded that Merino bring the Apartment into compliance with the requirements of the LAMC. Merino did not bring the Apartment into compliance with the requirements of the LAMC.
- 6) Trial of the State Court Action occurred on January 17, 2018. On that same date, the State Court entered judgment in favor of Foreman and against Merino, in the amount of \$10,114.00 (consisting of damages in the amount of \$9,999.00 and costs in the amount of \$115.00) (the "State Court Judgment").
- 7) On September 25, 2018, Merino filed a voluntary Chapter 7 petition. On October 30, 2019, Merino received a discharge.
- 8) On December 27, 2018, Foreman timely filed a *Complaint for Determination of Dischargeability and Objecting to Debtor's Discharge* [Doc. No. 1] (the

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**Thomas Ernesto Merino**

**Chapter 7**

“Complaint”) against Merino.

- 9) On July 2, 2019, the Court granted in part and denied in part Merino’s motion to dismiss the Complaint for failure to state a claim upon which relief could be granted. The Court dismissed the Complaint’s claims under § 727(a)(3) and (a)(4)(A) without leave to amend. The Court found that the Complaint stated claims for relief under § 523(a)(2)(A) and (a)(6).

**B. Disputed Issues of Fact**

The following issues of fact, and no others, remain to be litigated:

- 1) At the time Merino rented the Apartment to Foreman, did Merino represent to Foreman that the Apartment (a) was a permitted unit that was (b) maintained in compliance with all requirements of the LAMC?
- 2) Did Merino know that these representations were false at the time he made them?
- 3) Did Merino make the false representations for the purpose of inducing Foreman to rent the Apartment?
- 4) Did Foreman justifiably rely upon Merino’s false representations in making the decision to rent the Apartment?
- 5) After Foreman demanded that Merino bring the Apartment into compliance with the requirements of the LAMC, did Merino threaten and harass Foreman?
- 6) Did Merino enter the Apartment without authorization in April 2017, and destroy Foreman’s property?
- 7) Did Merino lock Foreman out of the Apartment without properly complying with eviction procedures?
- 8) Did Merino cause his friend, Edwin Sagustume, to enter the Apartment and disable a security camera that Foreman had installed?
- 9) In addition to the non-compliance set forth in the Substandard Order, was the Apartment also non-compliant for failing to contain a lockable door?
- 10) By failing to bring the Apartment into compliance with the LAMC, did Merino harbor either (a) a subjective intent to injure Foreman or (b) a subjective belief that injury to Foreman was substantially certain?

**C. Disputed Issues of Law**

The following issues of law, and no others, remain to be litigated:

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**Thomas Ernesto Merino**

**Chapter 7**

- 1) Is the indebtedness established by the State Court Judgment excepted from Merino's discharge pursuant to § 523(a)(2)(A)?
- 2) Is the indebtedness established by the State Court Judgment excepted from Merino's discharge pursuant to § 523(a)(6)?

**D. Foreman is Not Entitled to Additional Time to Conduct Discovery or to File Other Motions**

Foreman states that she is considering filing (a) a motion to compel Merino to respond to Foreman's discovery and (b) various other motions for sanctions against Merino.

On July 2, 2019, the Court entered a Scheduling Order [Doc. No. 56] which fixed **January 25, 2020** as the last day to complete discovery and fixed **January 21, 2020** as the last day for dispositive motions to be heard.

Civil Rule 16(b)(4) provides that a scheduling order "shall not be modified except upon a showing of good cause and by leave of the ... judge." Civil Rule 16's "good cause" standard "primarily considers the diligence of the party seeking the amendment. The ... court may modify the pretrial schedule 'if it cannot reasonably be met despite the diligence of the party seeking the extension.'" *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 608 (9th Cir. 1992).

Foreman has failed to show good cause for an extension of the Scheduling Order's deadline for filing pretrial motions, which has elapsed. Foreman is not entitled to file any pretrial motions.

**E. Issues That Are Not Relevant**

Both Foreman and Merino's proposed Pretrial Orders address various issues that are not relevant and that will not be addressed at trial. These issues are as follows:

*Validity of the State Court Judgment*

Merino contests the validity of the State Court Judgment. Merino's theory is that a judgment for violations of landlord/tenant law cannot be entered against someone who, like him, does not own the Property.

Merino's challenge to the validity of the State Court Judgment is not properly before the Court. Under the *Rooker-Feldman* doctrine, the Court cannot review the validity of the State Court Judgment:

At its core, the *Rooker-Feldman* doctrine stands for the unremarkable



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**Thomas Ernesto Merino**

**Chapter 7**

proposition that federal district courts are courts of original, not appellate, jurisdiction. *See* 28 U.S.C. §§ 1331, 1332. Thus, it follows that federal district courts have "no authority to review the final determinations of a state court in judicial proceedings." *Worldwide Church of God v. McNair*, 805 F.2d 888, 890 (9th Cir.1986). Direct federal appellate review of state court decisions must occur, if at all, in the Supreme Court. *See* 28 U.S.C. § 1257.

*Rooker–Feldman* is not a constitutional doctrine. Rather, the doctrine arises out of a pair of negative inferences drawn from two statutes: 28 U.S.C. § 1331, which establishes the district court's "original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States"; and 28 U.S.C. § 1257, which allows Supreme Court review of "[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had."

*Gruntz v. County of Los Angeles (In re Gruntz)*, 202 F.3d 1074, 1078 (9th Cir. 2000).

*Whether Merino Represented to Foreman that He Owned the Property*

Whether Merino represented to Foreman that he owned the Property is not relevant. As discussed above, the State Court Judgment remains valid and enforceable regardless of whether Merino owned the Property.

**F. Foreman’s Allegations State a Claim Upon Which Relief Can Be Granted**

Merino reasserts his contention—previously presented to the Court by way of a Motion to Dismiss—that the indebtedness established by the State Court Judgment does not fall within the exceptions to discharge set forth in § 523(a)(2)(A) and (a)(6). The Court denied Merino’s motion to dismiss the Complaint’s claims under § 523(a)(2)(A) and (a)(6). There is no merit to Merino’s assertion that Foreman can prove no set of facts establishing the non-dischargeability of the State Court Judgment.

**G. Defendant’s Emergency Request for a Continuance of the Pretrial Conference is Denied**

On February 12, 2020, the Court ordered Plaintiff and Defendant to appear in person at this Pretrial Conference. *See* Doc. No. 68. On the day prior to the Pretrial Conference, Defendant moved for a continuance of the Pretrial Conference to March 16, 2020, citing a work conflict. *See* Doc. No. 74.

The Court has entered an order denying Defendant’s request for a continuance.

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**CONT... Thomas Ernesto Merino**

**Chapter 7**

Defendant has had almost one month's notice of the Pretrial Conference, which is more than sufficient time to make arrangements to attend.

As previously ordered, Defendant shall appear at the Pretrial Conference in person. The failure to appear will result in the imposition of sanctions as deemed appropriate by the court. Such sanctions may include, without limitation, the striking of Defendant's answer, the entry of Defendant's default, and the entry of judgment in favor of Plaintiff.

**H. Trial Date**

Trial shall take place on **Monday, April 27, 2020**. The trial day commences promptly at 9:00 a.m. The parties will have one day to try the case.

By no later than **April 15, 2020**, the parties shall deliver the following trial materials directly to Judge Robles' chambers (the "Trial Materials"):

- 1) A trial brief;
- 2) A set of proposed findings of fact and conclusions of law;
- 3) Trial exhibits;
- 4) A list of trial exhibits; and
- 5) A list of witnesses.

The trial exhibits shall be contained in exhibit binders. Foreman's exhibits shall be identified numerically commencing with "Exhibit 1." Merino's exhibits shall be identified alphabetically commencing with "Exhibit A." Exhibit tags are available on the Court's website at

<[https://www.cacb.uscourts.gov/forms/local\\_bankruptcy\\_rules\\_forms](https://www.cacb.uscourts.gov/forms/local_bankruptcy_rules_forms)> (follow the link "Exhibit Tag (Plaintiff)" or "Exhibit Tag (Defendant)").

Each party must deliver to chambers two (2) copies of the exhibit binder (one copy for the witnesses and one copy for the Judge).

By no later than **April 15, 2020**, each party must serve all of the Trial Materials upon the opposing party.

**I. Notwithstanding the Court's Prior Orders, the Parties May Appear by Telephone**

Notwithstanding the Court's prior orders directing the parties to appear in person, the parties may appear by telephone should they wish to do so. Telephonic appearances are arranged through CourtCall, an independent conference call company.

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**CONT... Thomas Ernesto Merino**

**Chapter 7**

Directions for appearing by telephone are available at  
<[https://www.cacb.uscourts.gov/sites/cacb/files/  
documents/judges/instructions/ER\\_TelephonicAppearancesProcedures.pdf](https://www.cacb.uscourts.gov/sites/cacb/files/documents/judges/instructions/ER_TelephonicAppearancesProcedures.pdf)>.

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

Thomas Ernesto Merino

Represented By  
Kourosh M Pourmorady

**Defendant(s):**

Thomas Ernesto Merino

Pro Se

**Plaintiff(s):**

Star Rae Foreman

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

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11:00 AM

**2:18-22393 Sharon R Williams**

**Chapter 7**

Adv#: 2:19-01050 Miller v. Hancox

**#108.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01050. Complaint by Elissa D. Miller against Donnell Hancox. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(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))) (Simons, Larry)

fr. 6-11-19; 12-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE WILL BE  
HEARD AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Sharon R Williams	Pro Se
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**Defendant(s):**

Donnell Hancox	Pro Se
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**Plaintiff(s):**

Elissa D. Miller	Represented By Larry D Simons
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**Trustee(s):**

Elissa Miller (TR)	Represented By Larry D Simons
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11:00 AM

**2:18-22399 Dorothy Victoria Long**

**Chapter 7**

Adv#: 2:19-01086 United States Trustee for the Central District of v. Long

**#109.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01086. Complaint by United States Trustee (LA) against Dorothy Victoria Long. (Fee Not Required). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference)  
Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e)))  
(Morrison, Kelly)  
fr. 6-11-19; 1-14-2020

Docket 1

**Tentative Ruling:**

3/9/2020

Defendant has failed to cooperate with the United States Trustee (the "UST") in the preparation of a Pretrial Order. Defendant has failed to provide the UST a list of exhibits or a list of witnesses. Because Defendant has failed to timely provide the UST a list of exhibits or a list of witnesses, Defendant will not be permitted to introduce any exhibits into evidence at trial. Defendant will be permitted to testify, but will not be permitted to call any other witnesses.

The Court has entered the Pretrial Order submitted by the United States Trustee. Trial shall take place on **Monday, March 23, 2020**. The trial day commences at 9:00 a.m. By no later than **Monday, March 16, 2020**, the parties shall deliver directly to Judge Robles' chambers the trial materials specified in the *Order Re: Courtroom Procedures* [Doc. No. 4].

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.



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11:00 AM

**2:18-24737 Sang Hoon Lee**

**Chapter 7**

Adv#: 2:19-01143 United States Trustee for the Central District of v. Lee

**#110.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01143. Complaint by United States Trustee for the Central District of California, Region 16 against Sang Hoon Lee. (Fee Not Required). Nature of Suit: (65 (Dischargeability - other)) (Law, Dare)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 9-19-19**

**Tentative Ruling:**

- NONE LISTED -

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

Sang Hoon Lee

Represented By  
Michael H Yi

**Defendant(s):**

Sang Hoon Lee

Pro Se

**Plaintiff(s):**

United States Trustee for the Central

Represented By  
Dare Law

**Trustee(s):**

David M Goodrich (TR)

Pro Se

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**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01110      Nguyen dba Sam Bullion & Coin v. Zendedel

**#111.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01110. Complaint by Sam Thuy Nguyen dba Sam Bullion & Coin against Bahram Zendedel. 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)) (Tabibi, Nico)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED ON 9-27-19**

**Tentative Ruling:**

- NONE LISTED -

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

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Sam Thuy Nguyen dba Sam Bullion

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



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11:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01111 Danny's Silver Jewelry Inc., a California cor v. Zendedel

**#112.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01111. Complaint by Danny's Silver Jewelry Inc., a California corporation, dba Danny's Silver, Inc., dba Danny's Silver & Gold against Bahram Zendedel. 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)) (Tabibi, Nico)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4-14-20 at 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Danny's Silver Jewelry Inc., a

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, March 10, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01114 Chady v. Zendedel

**#113.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01114. Complaint by Cyrus Chady, Bahram Zendedel against Bahram Zendedel. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Uyeda, James)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-27-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Cyrus Chady

Represented By  
James S Uyeda

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
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**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#114.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01137. Complaint by G-Sight Solutions, LLC against Ryan James McMillin, G-Sight Solutions, Inc., a California Corporation. 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)),(14 (Recovery of money/property - other)) (Zshornack, Errol)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Pro Se

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Pro Se

G-Sight Solutions, LLC, a California

Pro Se

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
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**Tuesday, March 10, 2020**

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11:00 AM

**2:19-13059 Norberto Pimentel**

**Chapter 7**

Adv#: 2:19-01146 Wesley H Avery, Chapter 7 Trustee v. Pimentel et al

**#115.00** Pre-Trial Conference RE: [1] Adversary case 2:19-ap-01146. Complaint by WESLEY Howard AVERY against Norberto Pimentel, Erica Pimentel. (Charge To Estate). Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Stevens, Adam)

Docket 1

**Tentative Ruling:**

3/9/2020

The Court has entered the Joint Pretrial Stipulation submitted by the parties. Trial shall take place on **Tuesday, March 24, 2020**. The trial day commences at 9:00 a.m. By no later than **Monday, March 16, 2020**, the parties shall deliver directly to Judge Robles' chambers the trial materials specified in the *Order Re: Courtroom Procedures* [Doc. No. 4].

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Norberto Pimentel

Represented By  
Marcus Gomez

**Defendant(s):**

Norberto Pimentel

Pro Se

Erica Pimentel

Pro Se

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**CONT... Norberto Pimentel**

**Chapter 7**

**Joint Debtor(s):**

Erica Pimentel

Represented By  
Marcus Gomez

**Plaintiff(s):**

Wesley H Avery, Chapter 7 Trustee

Represented By  
Georgeann H Nicol  
Adam Stevens

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Adam Stevens

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**Hearing Room 1568**

11:00 AM

**2:19-14528 Allen Joseph MacQuarrie**

**Chapter 7**

Adv#: 2:19-01144 Borish et al v. Tabingo et al

**#116.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01144. Complaint by Stephen & Ami Borish against Allen Joseph MacQuarrie. (d),(e)),(14 (Recovery of money/property - other)),(62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Bonar, Roxanne)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Allen Joseph MacQuarrie

Represented By  
Shawn P Huston

**Defendant(s):**

Celgine Tabingo	Pro Se
Clarke Miller	Pro Se
KarmaBox Vending	Pro Se
MyKarmabox.com	Pro Se
Urban Vendor, Inc	Pro Se
Does 1 Through 20, Inclusive	Pro Se
Allan J Macquarrie	Pro Se

**Plaintiff(s):**

Stephen Borish	Pro Se
Ami Borish	Pro Se

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**CONT... Allen Joseph MacQuarrie**

**Chapter 7**

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, March 11, 2020

Hearing Room 1568

10:00 AM

2:13-22774 Margaret Louise Soderberg

Chapter 7

#1.00 HearingRE: [24] Motion to Approve Compromise Under Rule 9019 ; and for Authority to Pay Special Litigation Counsel's Contingency's Fee (Dye (TR), Carolyn)

Docket 24

**Tentative Ruling:**

3/10/2020

For the reasons set forth below, the Motion is GRANTED, and the Settlement is APPROVED. The Court further approves the fees and costs payable to the Special Litigation Counsel pursuant to the terms of the Settlement.

**Pleadings Filed and Reviewed**

1. Chapter 7 Trustee's Motion for Authority (i) to Compromise Mesh Implant Claims (In re C.R. Bard, Case No. MDL 2187); and (ii) For Authority to Pay Special Litigation Counsel's Contingency's Fee [Doc. No. 24] (the "Motion")
2. Notice of Motion [Doc. No. 25]
3. Order Granting the Employment Application [Doc. No. 22] (the "Employment Application Order")
4. Trustee's Application to Employ Wagstaff & Cartmell, LLP and Bertram & Graf, LLC as Special Litigation Counsel (the "Employment Application") [Doc. No. 19]
5. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

**Case Background**

Margaret Louise Soderberg (the "Debtor") commenced a voluntary chapter 7 petition on May 15, 2013. At the outset of the case, Richard K. Diamond was appointed as chapter 7 trustee (the "Former Trustee"). On or about November 16, 2012, the Debtor engaged the services of *Bertram & Graf* ("Bertram") to represent her pre-petition claims asserted in *In re C.R. Bard, Inc.*, Case No. MDL 2187, filed in the U.S. District Court for Southern District of West Virginia (the "Mesh Implant Litigation"). The Debtor did not disclose the Mesh Implant Litigation claims (the "Claims") in her schedules, nor did she attempt to exempt any portion thereof. As the



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**CONT... Margaret Louise Soderberg**

**Chapter 7**

Former Trustee did not locate any other administrable assets, the Debtor received her discharge on August 19, 2013, and the case was closed on August 23, 2013.

Bertram subsequently referred the settlement portion of the Mesh Implant Litigation to *Wagstaff & Cartmell, LLP* ("Wagstaff") (collectively with Bertram, the "Special Litigation Counsel"). After learning of the bankruptcy petition, Wagstaff contacted the Former Trustee, who in turn referred the case to the U.S. Trustee's office. On or about September 5, 2019, the case was reopened, and Carolyn A. Dye was appointed the chapter 7 trustee (the "Trustee"). On request of the Trustee, the Court entered an order to employ Special Litigation counsel to finalize the Mesh Implant Litigation settlement (the "Settlement"). As set forth in the order approving the Employment Application [Doc. No. 22], Special Litigation Counsel is to be compensated on a contingency fee basis consistent with the original engagement agreement executed by the Debtor.

On November 13, 2019, a special master appointed in the Mesh Implant Litigation determined that the Debtor was entitled to a gross settlement sum of \$81,000. Based on the strengths and weaknesses of Debtor's case in the Mesh Implant Litigation, the Trustee decided to accept the Settlement terms.

**The Motion**

On February 11, 2020, the Trustee filed the Motion [Doc. No. 24]. The Trustee seeks approval of the Settlement, pursuant to which the estate stands to receive \$29,217.50 net of deductions for fees, expenses, and liens. *See* Motion, Ex. B [the Settlement]. As provided in the Settlement, the Special Litigation Counsel is entitled to fees and costs in the following amounts:

- Wagstaff fees: \$4,495.50
- Wagstaff costs: \$995.61
- Bertram fees: \$25,474.50
- Bertram costs: \$413.13
- Total: \$31,378.74

*See* Motion, Ex. B.

The Trustee states that claims against the Debtor's estate total \$23,151.76, and,

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CONT... **Margaret Louise Soderberg**

**Chapter 7**

apart from the Settlement proceeds, the estate has no other administrable assets. Moreover, the Trustee reasons that prevailing on the Claims will be "extremely difficult" because the Debtor elected to opt into the settlement class, and also because the Debtor is now deceased. According to the Trustee, the Settlement is a "win" for the estate and creditors. Given that the Settlement will generate immediate estate funds, while mitigating administrative expense, the Trustee submits that the proposed settlement is reasonable, adequate under the circumstances, and in the best interest of creditors pursuant to the factors enumerated in *A & C Properties*.

Separately, the Trustee requests that the Court approve the fees and costs of the Special Litigation Counsel as stated in the Settlement.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Bankruptcy Rule 9019(a) permits the Court to approve a compromise or settlement. In the Ninth Circuit, courts consider the following factors in determining the fairness, reasonableness and adequacy of a proposed settlement agreement:

- (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;
- (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

*Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

"Each factor need not be treated in a vacuum; rather, the factors should be considered as a whole to determine whether the settlement compares favorably with the expected rewards of litigation." *In re Western Funding Inc.*, 550 B.R. 841, 851 (B.A.P. 9th Cir. 2016). Furthermore, "compromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (Bankr. D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point

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**CONT... Margaret Louise Soderberg**

**Chapter 7**

in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983).

Here, the Court finds that the Settlement is adequate, fair and reasonable, and in the best interest of the estate in accordance with the *A & C Properties* factors. Accordingly, the Trustee persuasively conveys that obtaining a more favorable result in the Mesh Implant Litigation is improbable and subject to prohibitive cost and difficulty given the Debtor's passing. Furthermore, the Court recognizes that the Settlement will generate a sizeable pool of funds to pay administrative expenses and most, if not all, of unsecured and priority claims. In fact, the Settlement proceeds are the only assets available to the estate. For this reason, the Settlement adequately considers the interests of creditors, and it reduces the likelihood of litigation, thereby avoiding unnecessary costs, delays, and uncertainties. In sum, the Court determines that the Trustee satisfied all of the *A & C Properties* factors, and therefore, the Settlement is approved.

Moreover, the Court has not received any objection to the Motion. Accordingly, pursuant to LBR 9013-1(h), the Court presumes all interested parties consent to the approval of the Settlement.

Finally, having reviewed the Settlement, the Court deems appropriate the fees and costs allocated to the Special Litigation Counsel. These fees and costs are approved in the amounts set forth in the Settlement. The Court approved the Special Litigation Counsel's employment, with payment of compensation to be governed pursuant to 11 U.S.C. § 328. Because its requested compensation is commensurate with the Employment Application Order, the Special Litigation Counsel is not required to file a separate final fee application.

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED, and the Settlement is APPROVED. The Court further approves the fees and costs payable to the Special Litigation Counsel pursuant to the terms of the Settlement.

The Trustee is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

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**CONT... Margaret Louise Soderberg**

**Chapter 7**

to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Margaret Louise Soderberg

Represented By  
David A Delgado

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

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2:18-22196 Cynthia Carrillo

Chapter 7

#2.00 APPLICANT: Trustee: PETER J MASTAN

Hearing re [35] and [36] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

3/10/2020

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$874 [*see* Doc. No. 35]

Total Expenses: \$34.25 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Cynthia Carrillo

Represented By  
Arthur H Lampel

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**CONT... Cynthia Carrillo**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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**2:19-23181 Raschelle Solange McGraw**

**Chapter 7**

**#3.00 Show Cause Hearing**  
RE: [11] Requiring Debtor To Appear And Show Cause Why Case Should Not Be Dismissed Because Of Debtors Failure To Pay The Filing Fee In Installments.

Docket 11

**\*\*\* VACATED \*\*\* REASON: PAID IN FULL 2/7/20**

**Tentative Ruling:**

- NONE LISTED -

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

Raschelle Solange McGraw	Pro Se
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**Trustee(s):**

Edward M Wolkowitz (TR)	Pro Se
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**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

Adv#: 2:16-01374 Official Unsecured Creditors Committee for Liberty v. Ho et al

**#4.00** Status conference re status of appeal

fr. 7-9-19; 10-15-19; 12-10-19; 2-11-20

Docket 129

**Tentative Ruling:**

3/10/2020

For the reasons set forth below, the Court declines to schedule a trial in this action at this time. A continued Status Conference to monitor the status of the criminal action against Kirk and Gao shall take place on **September 8, 2020, at 10:00 a.m.**

**Pleadings Filed and Reviewed:**

- 1) Plan Administrator's Motion to Reopen Adversary Proceeding and Schedule Trial [Doc. No. 129] (the "Motion")
  - a) Notice of Motion [Doc. No. 130]
- 2) Defendant Tsai Luan Ho a/k/a Shelby Ho's Opposition to Plan Administrators' Motion to Reopen Adversary Proceeding and Schedule Trial [Doc. No. 132] (the "Opposition")
  - a) Request for Judicial Notice [Doc. No. 133]
- 3) Plan Administrator's Reply in Support of Motion to Reopen Adversary Proceeding and Schedule Trial [Doc. No. 134] (the "Reply")
- 4) Order Setting Continued Status Conference for March 11, 2020, at 10:00 a.m. [Doc. No. 149]
- 5) Plan Administrator's Opposition to Continuance of Trial and Responsive Brief Regarding Molinaro Issues [Doc. No. 153]
- 6) Defendant Tsai Luan Ho aka Shelby Ho's Reply to the Plan Administrator's Opposition to Stay of Trial [Doc. No. 154]

**I. Facts and Summary of Pleadings**

In this action, Bradley D. Sharp, the Plan Administrator under the Confirmed First Amended Chapter 11 Plan of Liquidation Dated January 31, 2018 for Liberty Asset



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CONT... **Liberty Asset Management Corporation** Chapter 11

Management Corporation (the "Plan Administrator") seeks to avoid, as actually and constructively fraudulent, transfers from Liberty Asset Management Corporation ("Liberty") to Tsai Luan Ho aka Shelby Ho ("Ho").

Trial was initially set for May 29–30, 2018. On May 28, 2018, Ho filed a voluntary Chapter 7 petition in the United States Bankruptcy Court for the Northern District of California (the "Northern District Bankruptcy Court"). [Note 1] The Court took the trial off calendar. Based upon Plaintiff's representation that it intended to pursue a non-discharge ability action against Ho in the Northern District Bankruptcy Court, the Court subsequently dismissed this action without prejudice.

On December 29, 2017, the Court entered a *Memorandum of Decision Finding that Plaintiff is Entitled to Judgment Against Defendants in the Amount of \$74,140,695.29* (the "Memorandum of Decision") and corresponding judgment (the "Judgment") in the adversary proceeding *Plan Administrator v. Lucy Gao and Benjamin Kirk* (Adv. No. 2:16-ap-01337-ER). On February 8, 2019, the District Court reversed the Memorandum of Decision and Judgment and remanded the action for further proceedings. The Plan Administrator subsequently entered into separate settlement agreements with Gao and Kirk. The action was dismissed after Gao and Kirk made all the payments required under the settlement agreements.

Prior to taking trial of the instant action off calendar, the Court issued two tentative rulings. The first tentative ruling granted Plaintiff's Motion *in Limine* to exclude certain evidence presented by Ho that had not been timely produced during discovery. The second tentative ruling held that Ho was precluded from contesting the following findings of fact contained in the Memorandum of Decision:

- 1) Investors contributed funds to Liberty that were earmarked for investments in specific properties, pursuant to investment contracts entered into between Liberty and the investors. Liberty did not use the funds in accordance with the investment contracts to purchase the properties for which the funds had been earmarked. Rather than segregating the funds contributed by each investor to insure that such funds were used for their intended purpose, Liberty treated all investor funds as a single capital pool. Liberty used this capital pool to attempt to acquire whatever property it was pursuing at the time, regardless of whether that property was the one specified by the investor. Memorandum of Decision at 6.
- 2) Liberty received approximately \$36.26 million for the purchase of specified real properties from various investors, but failed to purchase any of the

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CONT...

**Liberty Asset Management Corporation**

**Chapter 11**

- properties in question and failed to return any of the investors' funds. *Id.* at 7.
- 3) Liberty engaged in the business of acquiring and selling commercial properties. As of 2012, Liberty's business of acquiring and selling commercial properties was not profitable. *Id.* at 7.

Although Ho was not a party to the litigation that produced the Memorandum of Decision, the Court found that preclusion was appropriate because Kirk qualified as the virtual representative of Ho. *See Irwin v. Mascot*, 370 F.3d 924, 929 (9th Cir. 2004) (holding that privity exists for issue preclusion purposes "when two parties are so closely aligned in interest that one is the virtual representative of the other").

On July 20, 2018, Plaintiff filed a non-discharge ability action against Ho in the Northern District Bankruptcy Court (the "523 Action"). On August 23, 2018, the Chapter 7 Trustee in Ho's bankruptcy case filed a § 727 complaint to deny Ho's discharge (the "727 Action"). On April 9, 2019, the Northern District Bankruptcy Court entered judgment denying Ho's discharge, pursuant to § 727(a)(3) (the "Judgment Denying Discharge"). On April 16, 2019, Ho appealed the Judgment Denying Discharge to the United States District Court for the Northern District of California (the "District Court"). On June 7, 2019, the Northern District Bankruptcy Court denied Ho's motion for a stay pending appeal of the Judgment Denying Discharge. Ho's appeal of the Judgment Denying Discharge remains pending before the District Court. Proceedings in the 523 Action have been stayed pending resolution of the appeal of the Judgment Denying Discharge. On April 26, 2019, the Northern District Bankruptcy Court issued a minute order providing that the 523 Action "may be restored to the calendar after the District Court acts on the pending appeal" of the Judgment Denying Discharge.

On July 9, 2019, the Court conducted a hearing on Plaintiff's motion to reopen this adversary proceeding (the "Motion to Reopen"). Plaintiff sought an order reopening this proceeding and setting the matter for an immediate status conference in trial.

The Court ruled that it would not set this matter for trial until the District Court had decided Ho's appeal of the Judgment Denying Discharge. The Court reasoned:

In the event that the District Court overturns the Judgment Denying Discharge, Plaintiff will be required to pursue the 523 Action to obtain a recovery against Ho. The 523 Action is based upon the same nucleus of operative facts as this action. The potential for duplicative litigation weighs against proceeding to

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**CONT...**

**Liberty Asset Management Corporation**

**Chapter 11**

trial at this time. In addition to wasting judicial resources, the additional costs resulting from a duplicative trial would decrease the recoveries available for distribution to creditors by the Plan Administrator.

Ruling on Motion to Reopen [Doc. No. 135] at 4.

On December 11, 2019, the District Court affirmed the Judgment Denying Discharge. Ho has not appealed the affirmance to the Ninth Circuit, and the deadline to do so has expired.

At a Status Conference held on February 11, 2020, Ho argued that trial of this action should be postponed until after a criminal action against Kirk and Gao has been resolved. Ho stated that she intends to call Kirk and Gao as witnesses on her behalf. Ho anticipates that Kirk and Gao will testify that Ho was never an officer, agent, principal, or co-conspirator of Kirk, Gao, or Liberty. According to Ho, if trial is not postponed, she will be unable to adequately defend herself because Kirk and Gao will invoke their Fifth Amendment rights and refuse to testify.

The Court directed the parties to submit further briefing addressing whether the trial should be postponed until after the conclusion of the criminal action against Kirk and Gao.

The Plan Administrator opposes any further continuance, and notes that a trial date has not been set in the criminal action against Kirk and Gao. The Plan Administrator argues that applicable precedent does not permit Ho to delay trial merely because potential witnesses may assert their Fifth Amendment right to refuse to testify. The Plan Administrator also fears that delay will result in the loss of memory of key witnesses.

Ho asserts that the testimony of Gao and Kirk goes to issues that are fundamental to the action—the extent to which Ho was aware of or participated in Gao and Kirk’s alleged misdeeds.

## **II. Findings and Conclusions**

The Court declines to set this action for trial at this time. Gao and Kirk’s testimony goes to key issues set forth in the Pretrial Order, including:

- Whether Ho was a partner and/or agent of Liberty, and whether Ho owes a fiduciary duty to Liberty to account for alleged benefits received?
- Whether Liberty or its Investment Entities made transfers to Ho with actual intent to hinder, delay, or defraud its current or future creditors?

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CONT... **Liberty Asset Management Corporation**

**Chapter 11**

- Whether written disclosures and written brokerage agreements with the investors were the sole responsibility of Kirk and Gao?
- Whether as of the Petition Date, Liberty owed Ho at least \$10 million in unpaid and past due commissions and other compensation?

If Kirk and Gao invoked their Fifth Amendment rights and refused to testify, the Court would be required to decide these issues without the benefit of hearing testimony from material witnesses.

Further, issues of whether Kirk and Gao would be entitled to invoke their Fifth Amendment rights—including the extent, if any, to which prior deposition testimony may have resulted in a waiver of those rights—would introduce additional complications at trial.

A continued Status Conference to monitor the status of the criminal action against Kirk and Gao shall take place on **September 8, 2020, at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing. The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Liberty Asset Management

Represented By  
David B Golubchik  
Jeffrey S Kwong  
John-Patrick M Fritz  
Eve H Karasik  
Sandford L. Frey

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Los Angeles  
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**CONT... Liberty Asset Management Corporation**

**Chapter 11**

Raphael Cung

**Defendant(s):**

Tsai Luan Ho

Represented By

James Andrew Hinds Jr

Paul R Shankman

Rachel M Sposato

Benjamin Kirk

Pro Se

**Plaintiff(s):**

Official Unsecured Creditors

Represented By

Jeremy V Richards

Gail S Greenwood

Bradley D. Sharp

Represented By

Gail S Greenwood

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

2:18-20698 United International Mortgage Solutions, Inc.

Chapter 11

#5.00 Order requiring debtor to Appear and Show Cause why this case should not be converted or dismissed

fr: 11-6-19; 1-14-20

Docket 0

**Tentative Ruling:**

3/10/2020

Appearance required. This is a continued hearing on the Court's *Order Requiring Debtor to Appear and Show Cause Why This Case Should Not be Dismissed or Converted* [Doc. No. 126] (the "OSC"). The Court has reviewed the Debtor's *Status Report Re Continued Hearing on the OSC* [Doc. No. 161] and, based thereon, counsel for the Debtor is directed to appear and advise the Court on the status of two refinance loans and an estimated date for voluntary dismissal of this case. If counsel for Debtor wishes to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

United International Mortgage

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

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Central District of California  
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**2:19-20161 Ray Charles Patterson**

**Chapter 11**

**#6.00** Hearing  
RE: [28] Motion for Setting Property Value Notice of Motion and Motion for Order Determining Value of Collateral [11 U.S.C. §506(a), FRBP 3012]: 7520 Shore Cliff Drive, Los Angeles, CA 90045, with Proof of Service

fr. 2-5-20

Docket 28

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-22-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ray Charles Patterson

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01001 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#7.00** Hearing  
RE: [40] Motion to Dismiss Adversary Proceeding - Defendants Notice of Motion and Motion to Dismiss Plaintiffs Complaint [Fed. R. Civ. Proc. 12(b)(1) & 12(b)(6)] -

Docket 40

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-18-20 AT 9:30 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

Kali P. Chaudhuri, M.D., an

Represented By

Gary E Klausner

Strategic Global Management, Inc.,

Represented By

Jeffrey S Kwong

Gary E Klausner

KPC Healthcare Holdings, Inc., a

Represented By

Gary E Klausner

KPC Health Plan Holdings, Inc., a

Represented By



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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Gary E Klausner

KPC Healthcare, Inc., a Nevada

Represented By  
Gary E Klausner

KPC Global Management, LLC, a

Represented By  
Gary E Klausner

Does 1 through 500

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Samuel R Maizel  
Tania M Moyron

ST. VINCENT MEDICAL

Represented By  
Samuel R Maizel  
Tania M Moyron

St Vincent Dialysis Center, Inc., a

Represented By  
Samuel R Maizel  
Tania M Moyron

ST. FRANCIS MEDICAL

Represented By  
Samuel R Maizel  
Tania M Moyron

Seton Medical Center, a California

Represented By  
Samuel R Maizel  
Tania M Moyron

Verity Holdings, LLC, a California

Represented By  
Samuel R Maizel  
Tania M Moyron

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01001 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#8.00** Hearing  
RE: [39] Motion - Defendants Notice of Motion and Special Motion to Strike  
Plaintiffs Complaint Pursuant to Cal. Civ. Proc. Code § 425.16; Memorandum of  
Points and Authorities -

Docket 39

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-18-20 AT 9:30 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

Kali P. Chaudhuri, M.D., an

Represented By

Gary E Klausner

Strategic Global Management, Inc.,

Represented By

Jeffrey S Kwong

Gary E Klausner

KPC Healthcare Holdings, Inc., a

Represented By

Gary E Klausner

KPC Health Plan Holdings, Inc., a

Represented By

**United States Bankruptcy Court  
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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Gary E Klausner

KPC Healthcare, Inc., a Nevada

Represented By  
Gary E Klausner

KPC Global Management, LLC, a

Represented By  
Gary E Klausner

Does 1 through 500

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Samuel R Maizel  
Tania M Moyron

ST. VINCENT MEDICAL

Represented By  
Samuel R Maizel  
Tania M Moyron

St Vincent Dialysis Center, Inc., a

Represented By  
Samuel R Maizel  
Tania M Moyron

ST. FRANCIS MEDICAL

Represented By  
Samuel R Maizel  
Tania M Moyron

Seton Medical Center, a California

Represented By  
Samuel R Maizel  
Tania M Moyron

Verity Holdings, LLC, a California

Represented By  
Samuel R Maizel  
Tania M Moyron

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2:18-20151 Verity Health System of California, Inc.

Chapter 11

**#8.10** Hearing re [4184] and [4199] Official Committee Of Unsecured Creditors'  
Objection To Third Amended Cash Collateral Stipulation

Docket 0

**Tentative Ruling:**

3/10/2020

For the reasons set forth below, the Committee's Objection to the Third Amended Cash Collateral Order is **OVERRULED**.

**Pleadings Filed and Reviewed:**

- 1) Stipulation to (A) Amend the Second Amended Supplemental Cash Collateral Order, (B) Authorize Continued Use of Cash Collateral, (C) Grant Adequate Protection, (D) Modify Automatic Stay, and (E) Grant Related Relief [Doc. No. 4184] (the "Third Amended Cash Collateral Stipulation")
- 2) Final Order Approving Stipulation to (A) Amend the Second Amended Supplemental Cash Collateral Order, (B) Authorize Continued Use of Cash Collateral, (C) Grant Adequate Protection, (D) Modify Automatic Stay, and (E) Grant Related Relief [Doc. No. 4187] (the "Third Amended Supplemental Cash Collateral Order")
- 3) Official Committee of Unsecured Creditors' (1) Opposition to Third Amended Supplemental Cash Collateral Stipulation; (2) Objection to the Order Thereon; and (3) Request for Hearing [Doc. No. 4199] (the "Objection")
  - a) Declaration of James C. Behrens Regarding Notice and Service of Cash Collateral Objection and Scheduling Order [Doc. No. 4227]
- 4) Order Setting Hearing on Official Committee of Unsecured Creditors' Objection to Third Amended Cash Collateral Stipulation [Doc. No. 4200]
- 5) Joint Response of Prepetition Secured Creditors to Official Committee of Unsecured Creditors' Opposition to Third Amended Supplemental Cash Collateral Stipulation [Doc. No. 4225]
- 6) Debtors' Reply to Official Committee of Unsecured Creditors' (1) Opposition to Third Amended Supplemental Cash Collateral Stipulation; (2) Objection to the

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Order Thereon; and (3) Request for Hearing [Doc. No. 4226]

- 7) Official Committee of Unsecured Creditors' Omnibus Reply to Responses to the Committee's Cash Collateral Objection [Doc. No. 4229] (the "Reply")

### **I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

#### **A. Background**

On October 4, 2018, the Court entered a *Final Order (I) Authorizing Postpetition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying Automatic Stay, and (VI) Granting Related Relief* [Doc. No. 409] (the "Final DIP Order"). The Final DIP Order authorized the Debtors to borrow up to \$185 million (the "DIP Financing") from Ally Bank (the "DIP Lender") under a credit agreement (the "DIP Credit Agreement"), and authorized the Debtors to use the cash collateral of the Prepetition Secured Creditors.<sup>1</sup>

The Final DIP Order waived the estates' (a) right to surcharge the Prepetition Secured Creditors' collateral under § 506(c) and (b) right to assert, under § 552(b), that the equities of the case warranted a determination that the Prepetition Secured Creditors' security interest does not extend to the post-petition proceeds of the Prepetition Secured Creditors' collateral. The Official Committee of Unsecured Creditors (the "Committee") appealed the waiver of the estates' §§ 506(c) and 552(b) rights to the District Court. On August 2, 2019, the District Court dismissed the appeal as moot under § 364(e). The Committee's appeal of the District Court's dismissal is pending before the Ninth Circuit and is being considered for oral argument in June 2020.

Under the DIP Credit Agreement, the DIP Financing expired and matured in accordance with its terms on September 7, 2019. On September 6, 2019, the Court approved an agreement among the Debtors and the Prepetition Secured Creditors, under which the Debtors were authorized to use the Prepetition Secured Creditors' cash collateral to repay the DIP Financing and to continue operations. *See* Doc. No. 3022. On December 30, 2019, the Court approved a stipulation between the Debtors and the Prepetition Secured Creditors authorizing the continued use of cash collateral

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through January 31, 2020. *See* Doc. No. 3883. On January 31, 2020, the Court approved a second stipulation providing for the continued use of cash collateral through February 29, 2020. *See* Doc. No. 4019. On February 28, 2020, the Court approved a third stipulation providing for the continued use of cash collateral through May 2, 2020. *See* Doc. Nos. 4184 (the “Third Amended Cash Collateral Stipulation” or “Stipulation”) and 4187 (the “Third Amended Supplemental Cash Collateral Order” or “Order”).

On March 2, 2020, the Official Committee of Unsecured Creditors (the “Committee”) filed an objection to the Third Amended Supplemental Cash Collateral Order. *See* Doc. No. 4199 (the “Objection”). Because the Committee had not had the opportunity to object to the approval of the Third Amended Cash Collateral Stipulation, the Court set this hearing on the Committee’s Objection.

**B. Summary of the Committee’s Objection**

The Committee makes the following arguments in support of its Objection to the Third Amended Supplemental Cash Collateral Order:

There is no representation in the Stipulation or Order that the cash collateral budget (the “Budget”) provides for the payment of all allowed administrative claims in full. The Committee is concerned that the Prepetition Secured Creditors have agreed to pay some, but not all, of the administrative claims that will accrue during the period covered by the Budget. Because the Debtors have waived the right to surcharge the Prepetition Secured Creditors’ collateral, it is imperative that the Prepetition Secured Creditors now commit to pay all of the costs and claims incurred by the Debtors postpetition. The Prepetition Secured Creditors need the bankruptcy process to realize the most value from their collateral. If administrative claims are left unpaid, the Prepetition Secured Creditors will obtain this benefit without paying the freight for the process that yields that value.

It is not sufficient for the Debtors to wait until plan confirmation to pay all allowed administrative claims, because there is no assurance that sufficient funds will be available for the payment of administrative claims after the Debtors’ assets have been liquidated.

**C. Summary of the Prepetition Secured Creditors’ Response to the Committee’s Objection**

The Prepetition Secured Creditors make the following arguments in response to

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the Committee's Objection:

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Given the Debtors' substantial cash flow losses, the Debtors are not entitled to the use of cash collateral absent the consent of the Prepetition Secured Creditors. The Prepetition Secured Creditors would not have agreed to allow the Debtors to continue to use their cash collateral on any terms other than those contained in the Stipulation. The Prepetition Secured Creditors will withdraw their consent to the use of cash collateral if they are compelled to guaranty the payment of all administrative claims. Thus, sustaining the Committee's Objection would immediately halt the Debtors' ongoing efforts to sell their hospitals, resulting in an almost immediate cessation of hospital operations and requiring the hospitals to be liquidated at fire sale prices.

There is no merit to the Committee's contention that the Prepetition Secured Creditors have not "paid their freight" in exchange for the sale of their collateral. The Prepetition Secured Creditors have consented to the use of more than one-half billion dollars of their cash collateral, and continue to consent to the use of their cash collateral even as the prospects for recovery grow less certain.

**D. Summary of the Debtors' Response to the Committee's Objection**

The Debtors make the following arguments in response to the Committee's Objection:

The Committee's argument that the Stipulation must be disapproved because it does not expressly guaranty payment of all allowed administrative claims must fail, because it raises a hypothetical injury to a class of *postpetition* creditors that the Committee does not represent. The Committee lacks standing to raise this objection, because the Committee is not charged with the duty of advancing the interests of post-petition, administrative claimants.

In addition, the Committee's argument is predicated on hypothetical injury, rather than injury in fact. As a result, the argument fails for lack of constitutional standing.

**E. Summary of the Committee's Reply in Support of its Objection**

The Committee makes the following arguments in its Reply in support of its Objection:

A debtor-in-possession has a duty to operate its business prudently and with a view to available resources. The failure of a debtor to do so by, for example, incurring

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administrative debt it could not pay would, at a minimum, be cause for conversion under § 1112(b). *See In re Pac. Airlines, Inc.*, 218 B.R. 590, 594 (Bankr. D. Colo. 1998) (finding that “cause” for conversion under section 1112 had been shown where “the Debtor [was] continuing to incur significant administrative expenses with no assurance of payment to administrative claimants”).

While it is true that the choice of whether to permit the use of cash collateral belongs to the Prepetition Secured Creditors, the decision as to which administrative creditors can be paid does not rest with the Prepetition Secured Creditors—any more than it rests with the Debtors, who are not permitted to pay “some, but not all” administrative claims. *See In re Nunzio’s Pizza, Inc.*, 202 B.R. 159 (Bankr. D. N.M. 1996) (“In fairness to the administrative claimants, the trustee should not pay some of the not yet allowed claimants, but omit others.”)

## II. Findings and Conclusions

Section 363(c)(2) requires court authorization for the use of cash collateral unless “each entity that has an interest in such cash collateral consents.” In the Ninth Circuit, satisfaction of Section 363(c)(2)(A) requires the “affirmative express consent” of the secured creditor; “implied consent,” resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368-69 (9th Cir. 1987). Absent affirmative express consent, the Debtors “may not use” cash collateral absent the Court’s determination that the use is “in accordance with the provisions” of Section 363—that is, that the secured creditor’s interest in the cash collateral is adequately protected. §§ 363(c)(2)(B) and (e).

The Prepetition Secured Creditors will not consent to the use of their cash collateral to fund these cases if the Prepetition Secured Creditors are required to guaranty the payment of all administrative claims. The Court cannot compel the Prepetition Secured Creditors to continue to finance the cases unless it finds that their interest in the cash collateral is adequately protected.

Here, the Court cannot find that the Prepetition Secured Creditors’ cash collateral is adequately protected and therefore cannot compel the use of cash collateral absent the Prepetition Secured Creditors’ consent. As the Court has stated on multiple prior occasions, the Debtor’s cash flow situation is dire and the Debtors’ assets are declining in value. The Debtors have been able to sustain operations only because the Prepetition Secured Creditors have allowed the Debtors to use proceeds from the Santa Clara County Sale (the “SCC Sale”) to fund their remaining hospitals.



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The abrupt termination of the Debtors' use of the Prepetition Secured Creditors' cash collateral would be detrimental to all constituencies in these cases—including the unsecured creditors represented by the Committee. Absent the continued use of cash collateral, the Debtors would not have sufficient time to adequately market their remaining hospitals. That would result in a marked reduction in the sales proceeds realized from the disposition of those assets.

The Court does not agree with the Committee's assertion that the Prepetition Secured Creditors have benefitted from the Debtors' disposition of their collateral without paying their share for the process that yields value. The Prepetition Secured Creditors have consented to the use of more than \$527 million in their cash collateral, as follows:

- 1) The Prepetition Secured Creditors consented to be primed by the DIP Lender. The DIP Financing was repaid using \$86 million of the Prepetition Secured Creditors' cash collateral.
- 2) The Prepetition Secured Creditors consented to the use of \$46 million in cash collateral that was held by the Debtors in the form of cash as of the Petition Date.
- 3) The Prepetition Secured Creditors consented to the use of \$219 million in cash collateral that was held by the Debtors in the form of net accounts receivable as of the Petition Date.
- 4) The Prepetition Secured Creditors consented to the use of \$176 million in cash collateral, received by the Debtors in the form of proceeds of the SCC Sale. Absent the use of these sales proceeds, the Debtors would not have had sufficient funds to keep their remaining hospitals open.

The Committee's assertion that the Debtors are required to obtain a cash collateral stipulation which provides for the payment of all administrative claims as they come due is not supported by the Bankruptcy Code. The Code's only requirement is that administrative claims be paid in full as of the effective date of a Plan, unless the administrative claimant agrees to different treatment. § 1129(a)(9). In any bankruptcy case, there is always some risk that there will not be sufficient cash available at the confirmation stage to pay all administrative claimants in full. The existence of such risk does not mean that the Debtors are neglecting their fiduciary duties or are failing to operate their businesses prudently.

Based upon the foregoing, the Committee's Objection to the Third Amended Cash

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**Chapter 11**

Collateral Order is **OVERRULED**. The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#9.00 Hearing re [126] Objection to Debtor's Claim of Exemptions [Objection to Debtors' Claimed Exemption of Individual Retirement Account]

Docket 0

**Tentative Ruling:**

3/10/2020

For the reasons set forth below, the Objection to the Debtor's exemption in their IRA is **SUSTAINED** and the exemption is **DISALLOWED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Objection to Debtors' Claimed Exemption of Individual Retirement Account [Doc. No. 126] (the "Objection")
- 2) Debtors' Opposition to Objection to Debtors' Claimed Exemption of Individual Retirement Account [Doc. No. 132] (the "Opposition")
- 3) Reply to Debtors' Opposition to Objection to Debtors' Claimed Exemption of Individual Retirement Account [Doc. No. 137]
  - a) Declaration of Scott E. Blakely in Support of Reply to Debtors' Opposition to Objection to Debtors' Claimed Exemption of Individual Retirement Account [Doc. No. 138]
  - b) Evidentiary Objection to and Request to Strike Portions of the Declaration of Michael Bonert in Support of Debtors' Opposition to Objection to Debtors' Claimed Exemption of Individual Retirement Account [Doc. No. 139]

**I. Facts and Summary of Pleadings**

**Background**

Michael Bonert ("Michael") and Vivien Bonert ("Vivien," and together with Michael, the "Debtors") filed a voluntary Chapter 11 petition on September 12, 2019 (the "Petition Date"). Prior to the Petition Date, the Debtors operated a pie manufacturing company known as Bonert's Incorporated ("Bonerts"). In 2016, Bonerts ceased conducting business after its lender caused its assets to be sold through a federal receivership. Proceeds of the receivership sale were used to pay secured

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**Chapter 11**

creditors, but were not sufficient to pay unsecured trade creditors, some of whom obtained unopposed judgments against Bonerts.

On August 13 and 14, 2019, Capitol Distribution Company, LLC ("Capitol"), Stratas Foods LLC ("Stratas"), Packaging Corporation of America, and Seneca Foods Corporation (collectively, the "Creditors") filed four collection actions (the "Collection Actions") against the Debtors, Bonerts, and LLCs wholly owned by the Debtors that were affiliates of Bonerts (the "Affiliates"). The Collection Actions allege, *inter alia*, that the Debtors operated the Affiliates and Bonerts as a single enterprise for the purpose of defeating the rights of creditors; that the Debtors misappropriated assets of Bonerts and the Affiliates; and that the Debtors are liable for trade debt incurred by Bonerts as its alter ego. The Collection Actions are currently pending before this Court.

*The Debtors' Retirement Accounts*

The Debtors scheduled a 100% interest in the following four retirement accounts:

- 1) IRA, Wells Fargo Advisors Acct. 9982—\$538,425.00 (the "IRA");
- 2) 403(b), Cedars-Sinai Medical Center—\$667,726.53;
- 3) 457(b), Cedars-Sinai Retirement Plan—\$435,542.53; and
- 4) Cedars-Sinai Health System Defined Contribution Plan—\$591,769.79.

Debtors claim the IRA as exempt pursuant to Cal. Civ. Proc. Code § 704.115. Creditors object to the claimed exemption, arguing that the IRA is not reasonably necessary for the support of the Debtors. There is no dispute that the remaining three retirement accounts are not property of the estate, pursuant to § 541(b)(7).

*The Debtors' Current Income and Expenses*

The Debtors' Schedule I lists gross monthly income of \$20,833.33 and net monthly income of \$17,139.57. The Debtors' net monthly income is primarily comprised of (a) Vivien's take-home pay of \$9,367.89 from her employment as a physician at Cedars-Sinai Medical Center, (b) interest and dividends of \$4,830.68 received by Michael, and (c) Michael's social security income of \$2,941.00.

The Debtors' Schedule J lists monthly expenses of \$14,003.38. The Debtors' most significant expenses are (a) \$6,193.00 for mortgage payments, real estate taxes, homeowners' insurance, home maintenance, and utilities associated with the Debtors' principal residence, located at 273 S. Canon Dr., Beverly Hills, CA 90212 (the

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"Principal Residence"), (b) \$4,000.00 in estimated taxes, and (c) \$1,000.00 in medical expenses.

*Summary of Papers Filed in Connection with the Objection*

The parties agree that the claimed exemption is governed by Cal. Code Civ. Proc. § 704.115, which provides that an IRA is exempt "only to the extent necessary to provide for the support of the judgment debtor when the judgment debtor retires and for the support of the spouse and dependents of the judgment debtor, taking into account all resources that are likely to be available for the support of the judgment debtor when the judgment debtor retires." Cal. Code Civ. Proc. § 704.115(e). The parties also agree that in applying Cal. Code Civ. Proc. § 704.115(e), the following factors are relevant in determining whether an IRA is "reasonably necessary" to the Debtors' support:

- (1) the debtor's present and anticipated living expenses and income;
- (2) the age and health of the debtor;
- (3) the debtor's ability to work and make a living, including his/her training, skills and education;
- (4) the debtor's other assets and their liquidity;
- (5) the debtor's ability to save for retirement; and
- (6) any special needs of the debtor and his/her dependents.

*In re Patrick*, 411 B.R. 659, 669 (Bankr. C.D. Cal. 2008).

Debtors assert that the IRA is reasonably necessary for their support. Debtors state that their income will be significantly reduced this year because (a) Vivien is expected to retire and (b) \$4,830 of the Debtors' monthly income will be required to fund a Plan of Reorganization (the "Plan"). According to Debtors, once these circumstances are accounted for their net monthly income will be approximately \$8,486.00. **[Note 1]**

Creditors contend that the IRA is not necessary for the Debtors' support. Creditors point out that the Debtors' monthly expenses significantly exceed the IRS Standard expenses for a family of equivalent size living in Los Angeles County. Creditors argue that the Debtors are not entitled to exempt the IRA in order to continue supporting what Creditors assert is a lavish lifestyle in Beverly Hills.

## **II. Findings of Fact and Conclusions of Law**

Under Cal. Civ. Proc. Code § 704.115, a retirement account is exempt, but "only

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to the extent necessary to provide for the support of the judgment debtor when the judgment debtor retires and for the support of the spouse and dependents of the judgment debtor, taking into account all resources that are likely to be available for the support of the judgment debtor when the judgment debtor retires." Cal. Code Civ. Proc. § 704.115(e). The purpose of the § 704.115 exemption "is to safeguard a stream of income for retirees at the expense of bankruptcy creditors." *DeMassa v. MacIntyre (In re MacIntyre)*, 74 F.3d 186, 188 (9th Cir. 1996), *corrected* (Jan. 22, 1996). The court is required to construe the § 704.115 exemption "liberally ... for the benefit of the debtor." *Lieberman v. Hawkins (In re Liberman)*, 245 F.3d 1090, 1092 (9th Cir. 2001).

To determine whether a retirement account is "reasonably necessary" to a debtor's support, courts consider the following factors:

- (1) the debtor's present and anticipated living expenses and income;
- (2) the age and health of the debtor;
- (3) the debtor's ability to work and make a living, including his/her training, skills and education;
- (4) the debtor's other assets and their liquidity;
- (5) the debtor's ability to save for retirement; and
- (6) any special needs of the debtor and his/her dependants.

*In re Patrick*, 411 B.R. 659, 669 (Bankr. C.D. Cal. 2008).

These factors were first articulated in *In re Moffat*, 119 B.R. 201 (9th Cir. BAP 1990), *aff'd*, 959 F.2d 740 (9th Cir. 1992), and are known as the *Moffat* factors.

The Court "has wide discretion in determining the amount necessary to support the debtor." *Id.* In making the determination, it is not appropriate for the Court "to merely rubberstamp the lifestyle that the Debtor has been used to." *Id.* at 670. While not dispositive, the IRS Standards may be useful as a starting point to assess reasonable expenses. *Id.*

Applying the *Moffat* factors, the Court finds that the IRA is not reasonably necessary for the Debtors' support.

**Factors 1 and 4: Anticipated Living Expenses and Income and the Debtors' Other Assets**

Aside from the IRA, the following assets, at a minimum, will be available to support the Debtors' retirement:

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- 1) \$1,695,038.85 in retirement assets that are not property of the estate (consisting of \$667,726.53 in Vivien's § 403(b) plan, \$435,542.53 in Vivien's § 457(b) plan, and \$591,769.79 in Vivien's defined contribution plan). At a 4% yield, these retirement assets would generate \$5,650.13 in monthly pre-tax income.
- 2) \$5,441.00 in monthly social security income (consisting of \$2,500.00 in social security income for Vivien and \$2,941.00 in social security income for Michael).
- 3) \$4,830.68 in dividend and interest income received by Michael.

Total monthly gross income from these assets is \$15,921.81. The Debtors project that their combined federal and state tax rate will be 33%. Using this projection, the Debtor's after-tax monthly income would be \$10,667.61. The Debtors also have \$1,661,694.00 in equity in their Principal Residence and \$157,426.00 in equity in a Lincoln National Life Insurance policy. The Debtors have membership interests in three real estate LLCs—LBP Arlington Hospitality, LLC ("Arlington"), CSP Nashville, LLC ("Nashville"), and Tempe Square Investors LLC ("Tempe"). The value of these interests is not stated in the Debtors' schedules; however, Debtors paid \$25,000 for their interest in Arlington in 2018, paid \$50,000 for their interest in Nashville in 2018, and paid \$200,000 for their interest in Temple in 2017. Debtors believe that their interests in the real estate LLCs are worth approximately what the Debtors invested.

Under the IRS Standards, expenses for two people living in Los Angeles are \$3,993 per month (consisting of \$2,045 for housing and utilities, \$546 for transportation, \$1,288 for food, apparel, and miscellaneous items, and \$114 for out-of-pocket healthcare costs). Without the IRA, the Debtors would still have monthly after-tax income that is approximately 2.5 times greater than the IRS Standard. That is even before including the Debtors' substantial other assets—the equity in their Principle Residence and their membership interests in three real estate LLCs.

As noted, the IRS Standards are not dispositive for purposes of § 704.115. However, the standards do provide a reasonable benchmark which forms a starting point for the Court's analysis. The Court cannot find that the IRA is necessary for the Debtors' support where, as here, their monthly after-tax income is 2.5 times greater than the IRS Standard and the Debtors hold substantial other valuable assets, including a home with equity in excess of \$1.6 million and real estate investments

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worth approximately \$275,000. That remains the case even accounting for the fact that the Debtors will be required to devote a significant portion of their monthly income to funding a Plan.

This factor weighs strongly against exempting the IRA.

**Factor 3: The Debtors' Ability to Work and Make a Living**

Vivien is currently employed as a physician at Cedars-Sinai Medical Center. Her gross monthly earnings are \$20,833.33. Vivien is 64 years old. Michael states that Vivien "expects to retire this year." Michael's Decl. at ¶ 7.

Michael states that he is 71 years old and is retired. He claims to have only a high school education and no marketable skills other than his work experience with Bonert's, Inc. Michael's Decl. at ¶ 6.

In the Court's view, Michael dramatically undersells his abilities and skillset. Michael may have only a high school education, but he founded and operated a network of bakeries that, at its peak, generated annual sales of \$60 million. *See* Doc. No. 37. In their schedules, Debtors disclose that Michael founded Angelytix Consulting LLC ("Angelytix") in 2017. Although to-date Angelytix has generated only *de minimis* income, the Debtors "are hopeful that in the future it will become a profitable business." Doc. No. 32 at pp. 13–14. In short, Michael is a successful entrepreneur who has the ability to earn significant income.

The premise of the Debtors' Opposition is that because Michael has retired and Vivien expects to retire shortly, the Court should not consider their earning potential for purposes of determining the exemptibility of the IRA. That premise is incorrect. The standard is the Debtors' "ability to work and make a living," including the Debtors' "training, skills and education," not whether the Debtors have chosen to continue working. *Patrick*, 411 B.R. at 669 (emphasis added). Of course, the Debtors cannot be forced to work for the benefit of creditors. But where both of the Debtors have the ability to earn substantial income, they are not entitled to simultaneously exempt their IRA on the ground that the IRA is necessary for their support.

This factor weighs against exempting the IRA.

**Factor 2: Age and Health of the Debtors**

There is nothing in the record that indicates that the Debtors' earning capacity has been compromised by health issues. This factor weighs against exempting the IRA.

**Factor 5: The Debtors' Ability to Save for Retirement**



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Michael has retired and Vivien is expected to retire shortly. Because both Debtors are at or near the retirement phase of their lives, this factor is not relevant.

**Factor 6: Any Special Needs of the Debtor or the Debtors' Dependents**

The Debtors do not have any dependents. Nothing in the record indicates that the Debtors have special needs. This factor is not relevant.

**Further Discovery is Neither Warranted Nor Necessary**

Debtors request that in the event the Court declines to overrule the Creditors' objection, the Court "treat Creditors' objection as a contested matter and set a discovery schedule." Opposition at 5. Further discovery would not assist the Court in deciding this matter. In addition, the Debtors are not entitled to any additional discovery. All of the information that would enable the Debtors to assert an entitlement to the exemption is in their possession. The Debtors sought bankruptcy protection on September 12, 2019, and therefore have had sufficient time to gather information to defend themselves against challenges to the allowability of exemptions.

**Evidentiary Rulings**

Debtors offer Michael's testimony in support of their projected income and expenses during retirement. Creditors seek to exclude the majority of Michael's testimony on the grounds that it is prejudicial, lacks foundation, is not supported by personal knowledge, and constitutes hearsay. The Committee asserts that Michael's projections of the Debtors' retirement income lack probative value because they are vague and speculative.

The Committee's objections are OVERRULED. Projections as to a debtor's future retirement income and expenses are inherently uncertain and require speculation. The Court has taken such uncertainty into account in adjudicating this matter.

The Committee objects to Michael's testimony that Vivien intends to retire shortly. That objection is also OVERRULED. As Vivien's spouse, Michael is qualified to testify as to Vivien's retirement plans.

**The Debtors' Subchapter V Election**

On March 3, 2020, Debtors amended their voluntary petition to elect treatment under the newly-enacted Subchapter V.

The Court will allow this case to proceed under Subchapter V, subject to the

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opportunity of any interested party to object. By no later than **March 12, 2020**, Debtors shall serve upon all interested parties a notice stating that any objection to the case proceeding under Subchapter V shall be filed by no later than **March 26, 2020**. Debtors shall file a Proof of Service of the notice by no later than **March 12, 2020**. In the event any objection is filed, the Court will determine whether a hearing or further briefing is required and will notify the parties accordingly.

### **III. Conclusion**

Based upon the foregoing, the Objection is **SUSTAINED** and the Debtors' claim of exemption in their IRA is **DISALLOWED** in its entirety.

Within seven days of the hearing, Creditors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

#### **Note 1**

The Debtors' project that their gross monthly income will be \$12,857 (consisting of Michael's social security income of \$2,941, Vivien's social security income of \$2,500, and retirement account income of \$7,417). After deducting taxes of \$4,242, the Debtors' projected net monthly income is \$8,486.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

- #9.10** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01406. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).

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**Tentative Ruling:**

3/10/2020

Michael Bonert ("Michael") and Vivien Bonert ("Vivien," and together with Michael, the "Debtors") filed a voluntary Chapter 11 petition on September 12, 2019 (the "Petition Date"). Prior to the Petition Date, the Debtors operated a pie manufacturing company known as Bonert's Incorporated ("Bonerts"). In 2016, Bonerts ceased conducting business after its lender caused its assets to be sold through a federal receivership. Proceeds of the receivership sale were used to pay secured creditors, but were not sufficient to pay unsecured trade creditors, some of whom obtained unopposed judgments against Bonerts.

On August 13 and 14, 2019, Capitol Distribution Company, LLC ("Capitol"), Stratas Foods LLC ("Stratas"), Packaging Corporation of America, and Seneca Foods Corporation (collectively, the "Creditors") filed these four collection actions (the "Collection Actions") against the Debtors, Bonerts, and LLCs wholly owned by the Debtors that were affiliates of Bonerts (the "Affiliates"). The Collection Actions allege, *inter alia*, that the Debtors operated the Affiliates and Bonerts as a single enterprise for the purpose of defeating the rights of creditors; that the Debtors misappropriated assets of Bonerts and the Affiliates; and that the Debtors are liable

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for trade debt incurred by Bonerts as its alter ego.

Having reviewed the Joint Status Reports submitted by the parties, the Court

**HEREBY FINDS AND ORDERS AS FOLLOWS:**

- 1) In the interests of judicial efficiency, the Court will consolidate the litigation of these four actions. The actions raise similar claims and the Debtors and the Affiliates have been named as Defendants in all of the actions. Notwithstanding such consolidation, the Court will maintain separate dockets for each adversary proceeding (as opposed to designating one of the proceedings as the lead case and requiring that all documents be filed in that proceeding).
- 2) Debtors/Defendants assert that it is not feasible to mediate the alter-ego and single enterprise liability issues raised in these actions with only the four Plaintiffs, while excluding from mediation 21 other creditors who also assert claims against the Debtors under alter-ego and single enterprise theories. The Debtors intend to object to the claims of all disputed creditors who have not filed adversary proceedings. The Court agrees with the Debtors that a global mediation involving all creditors asserting alter-ego claims would be more likely to result in settlement.
- 3) Debtors shall file objections to the claims of disputed creditors who have not filed adversary proceedings by no later than **March 18, 2020**. Unless otherwise ordered, the parties shall not be required to conduct the global mediation until these claim objections have been adjudicated.
- 4) The following litigation deadlines shall apply, subject to an extension for good cause shown:
  - a) A continued Status Conference to monitor the progress of mediation shall take place on **June 16, 2020, at 10:00 a.m.** A Status Report shall be filed by no later than fourteen days prior to the hearing.
  - b) Debtors have not responded to the Complaints in Adv. Nos. 2:19-ap-01377-ER and 2:19-ap-01378-ER. All non-Debtor Defendants have responded to the Complaints in these adversary proceedings. All parties have responded to the Complaints in Adv. Nos. 2:19-ap-01405-ER and 2:19-ap-01406-ER. Debtors shall respond to the Complaints in Adv. Nos. 2:19-ap-01377-ER and 2:19-ap-01378-ER by no later than **March 25, 2020**.
  - c) The last day to amend pleadings and/or join other parties is **7/16/2020**.

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- d) The last day to disclose expert witnesses and expert witness reports is **10/27/2020**.
- e) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **11/26/2020**.
- f) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **12/15/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- g) The last day for dispositive motions to be heard is **12/22/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- h) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **12/26/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- i) A Pretrial Conference is set for **1/12/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- j) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the

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admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- k) Trial is set for the week of **1/25/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 5) Plaintiffs have submitted a number of comments and suggestions regarding the production of electronically stored information, procedures for dealing with claims of privilege, procedures pertaining to the conduct of depositions, procedures for the treatment of commercially sensitive information, and procedures for electronic service. The Court declines to enter an order adopting detailed procedures with respect to these issues at this time. It is possible that certain of the issues which Plaintiffs' proposed procedures seek to resolve will not arise in these proceedings. Counsel for all parties shall work cooperatively to resolve issues regarding the conduct of the litigation without Court intervention.

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The Court will prepare and enter Scheduling Orders.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Represented By  
Lawrence M Jacobson

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By

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**Chapter 11**

3144 Bonert's LLC

Lawrence M Jacobson

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley



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**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#9.20** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01405. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

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**Tentative Ruling:**

3/10/2020

See Cal. No. 9.10, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Represented By  
Lawrence M Jacobson

Bonert Management Company, Inc.

Represented By

**United States Bankruptcy Court  
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	Lawrence M Jacobson
Bonert's Jadasaha, LLC	Represented By Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon, LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson
DOES 1 through 10, inclusive	Pro Se
Beefam, LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Capitol Distribution Company, LLC	Represented By Sean Lowe Scott E Blakeley
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**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01378 Coastal Carriers, LLC v. Bonert et al

**#9.30 Status Hearing**

re: Collection Actions [1] Adversary case 2:19-ap-01378. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan)

FR. 3-10-20

Docket 1

**Tentative Ruling:**

3/10/2020

See Cal. No. 9.10, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By

**United States Bankruptcy Court  
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**Chapter 11**

	Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Coastal Carriers, LLC	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
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**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01377 Packaging Corporation of America v. Bonert et al

**#9.40** Status Conference re: Collection Actions re: Notice of Removal of Civil Action to United States Bankruptcy Court. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer))

FR. 3-10-20

Docket 1

**Tentative Ruling:**

3/10/2020

See Cal. No. 9.10, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By

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Los Angeles  
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**Chapter 11**

	Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Packaging Corporation of America	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, March 11, 2020

Hearing Room 1568

11:00 AM

2:19-13763 Ya-Chuan Victor Lee

Chapter 11

#100.00 HearingRE: [104] Trustee's Motion to Determine Value of Property and Notice of (with proof of service)

Docket 104

**Tentative Ruling:**

3/10/2020

For the reasons set forth below, the Motion is GRANTED. Having reviewed the appraisal submitted by the Debtor, the Court finds that for plan treatment purposes, the Business has a value of \$401,000.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Order Determining Value of Collateral [Doc. No. 104] (the "Motion")
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

Ya-Chuan Victor Lee (the "Debtor") filed a voluntary chapter 11 petition on April 3, 2019 (the "Petition Date"). The Debtor seeks an order determining the value of Advanced Body Collision, Inc. (the "Business"), an automobile repair business, which the Debtor fully owns and operates. Supplemental Declaration of Debtor ("Lee Decl."), ¶ 1. Prior to the Petition Date, the Debtor personally guaranteed a series of business loan agreements, which were each perfected pursuant to the filing of UCC-1 financing statements against ABC's assets. *See id.*, ¶¶ 4-7. As set forth in the Motion, the Business is subject to the following liens, in the amounts and relative priorities specified below:

1. Royal Business Bank ("Royal") holds a first priority lien in the sum of \$200,000;
2. On Deck Capital c/o Celtic Bank ("ODC") holds a second priority lien in the sum of \$94,769;
3. Quicksilver Capital ("Quicksilver") holds a third priority lien in the sum of \$65,000;

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**CONT...**

**Ya-Chuan Victor Lee**

**Chapter 11**

4. Saturn Funding (“Saturn”) holds a fourth priority lien in the sum of \$20,958;
5. Kalamata Capital Group (“Kalamata”) holds a fifth priority lien in the sum of \$69,213;
6. Complete Business Solutions (“CBS”) holds a sixth priority lien in the sum of \$81,343;
7. DMKA, LLC dba: The Smarter Merchant (“DMKA”) holds a seventh priority lien in the sum of \$31,999.

*See id.*

The Debtor moves for an order to value the Business at \$401,000 pursuant to § 506(a). In support of the \$401,000 valuation, the Debtor attached a certified appraisal prepared by Daniel T. Jordan, an accredited senior appraiser. *See* Motion, Ex. B. The effective date of the appraisal is June 30, 2018, but the Debtor attests that, based on his review of the appraisal and his twenty-year experience of the industry, the fair market value of the Business remains the same to this day [Note 1]. *See* Declaration of the Debtor as Owner of the Collateral, ¶ 4. Based on the asserted valuation, the proposed treatment of the liens under the Debtor’s plan of reorganization is as follows. The claims held by Royal, ODC, Quicksilver, and Saturn will be treated as fully secured. Kalamata’s claim will be bifurcated into a secured portion of \$20,273 and an unsecured portion of \$48,940. Finally, the claims held by CBS and DMKA will be treated as fully unsecured.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Section 506(a)(1) provides in relevant part:

An allowed claim of a creditor secured by a lien on property in which the estate has an interest ... is a secured claim 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 ... 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.



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Los Angeles  
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**CONT... Ya-Chuan Victor Lee**

**Chapter 11**

Moreover, under § 506(a), the Court, after notice and a hearing on the matter, may value a claim secured by a lien on property and bifurcate the "total claim into secured and unsecured portions." *Matter of Sandy Ridge Development Corp.*, 881 F.2d 1346, 1349 (5th Cir. 1989); 11 U.S.C. § 506(a); Fed. R. Bankr. P. 3012. The Debtor, as movant, bears the burden of proof to demonstrate that the lien may be modified. *In re Bethoney*, 384 B.R. 24, 31 (Bankr. D. Mass. 2008); *see also In re Trosky*, 371 B.R. 701, 707 (Bankr. M.D. Pa. 2006); *In re Fletcher*, 2007 WL 1804931, at \* 2 (Bankr. S.D. Fla. 2007). When property is being valued for purposes of lien stripping under a reorganization plan, the Court determines the property's value as of the date of the plan confirmation hearing. *In re Abdelgadir*, 455 B.R. 896, 902 (B.A.P. 9th Cir. 2011).

The appraisal establishes that the value of Debtor's 100% interest in the Business has a value of \$401,000. In light of the appraised value of \$401,000, the Court finds that the claims held by Royal, ODC, Quicksilver, and Saturn are wholly secured; that Kalamata holds a secured claim of \$20,273 and an unsecured claim of \$48,940; and that CBS and DMKA hold wholly unsecured claims for purposes of such lienholders' plan treatment. Additionally, the Court recognizes that the date of the valuation can never line up exactly with the date of confirmation. The exigencies of motion practice thus inevitably entail some lapse of time between the date of the valuation and the date of confirmation. The Court also recognizes that the Debtor has not yet filed a plan and disclosure statement, so the confirmation date is presently unknown. However, pursuant to Local Bankruptcy Rule 9013-1(h), the Court deems the absence of any opposition to the Motion as the lienholders' consent to the Court granting the Debtor's requested relief. Therefore, the Court is persuaded to adopt the appraised valuation of \$401,000.

### **III. Conclusion**

Based upon the foregoing, the Motion is GRANTED. The Debtor shall submit an order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

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Central District of California  
Los Angeles  
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**CONT... Ya-Chuan Victor Lee**

**Chapter 11**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The appraisal was prepared on December 30, 2019, however, the appraiser utilized June 30, 2018 as the date of valuation because the Business' most current financial information was produced on or about such date. *See* Motion, Ex. B at 3 (page citation is to the pagination provided in the appraisal).

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

Ya-Chuan Victor Lee

Represented By  
Marcus G Tiggs

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10657 David Murphy and Amy Murphy**

**Chapter 7**

**#1.00** HearingRE: [13] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 FORD MUSTANG VIN 1FA6P8AM8H5266196 . (Wang, Jennifer)

Docket 13

**Tentative Ruling:**

3/12/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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Central District of California  
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10:00 AM

**CONT... David Murphy and Amy Murphy Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

David Murphy

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Amy Murphy

Represented By  
Julie J Villalobos

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10799 Annemarie Jowell**

**Chapter 7**

**#2.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Honda Hr-V, VIN: 3CZR U5H3 6KM7 01224 .

Docket 10

**Tentative Ruling:**

3/12/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

**United States Bankruptcy Court  
Central District of California  
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**Monday, March 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Annemarie Jowell**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Annemarie Jowell

Represented By  
Marc A Duxbury

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11441 Kevin Huntelman**

**Chapter 7**

**#3.00** HearingRE: [13] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 1901 W Lomita Boulevard, Space 17, Lomita, CA 90717 . (Castle, Caren)

Docket 13

**Tentative Ruling:**

3/12/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject mobile home and that such asset is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Kevin Huntelman**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Kevin Huntelman	Pro Se
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**Trustee(s):**

Carolyn A Dye (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11925 Stephen Winner**

**Chapter 7**

**#4.00** HearingRE: [6] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 4935 Locust Ave., Long Beach, CA 90805 .

Docket 6

**Tentative Ruling:**

3/12/2020

For the reasons set forth herein, CONTINUE HEARING to **March 30, 2020 at 10:00 a.m.** Pursuant to the Court's "Self-Calendaring Instructions" for residential unlawful detainer motions for relief from stay on shortened notice, no later than 7-days prior to the hearing, the motion and supporting documents are required to be served by posting or personal service on the Debtor. Here, although the proof of service attached to the Motion is dated 3/3/2020, it does not specify that the Debtor was served either by personal delivery or posting (as opposed to overnight mail service, facsimile transmission, and/or e-mail) as required by the Court's Self-Calendaring Instructions. By no later than **March 23, 2020**, Movant is directed to take the following actions: (i) file a notice of continued hearing ("Notice") on the docket; (ii) serve the Motion and Notice on the Debtor by posting or personal service; and (iii) file a proof of service evidencing compliance with this ruling. Failure to timely comply with any of the foregoing will result in denial of the motion.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Stephen Winner

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 16, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Stephen Winner**

**Chapter 7**

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01385 Mastan, Chapter 7 Trustee v. US Bank, N.A. et al

**#1.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01385. Complaint by Peter J. Mastan, Chapter 7 Trustee against US Bank, N.A., Kenny Hwang, Hee Jung Lee. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: Continued to 5/12/2020 at 10:00 a.m.**

**Tentative Ruling:**

3/16/2020

Order entered. Status Conference **CONTINUED to May 12, 2020, at 10:00 a.m.**

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

US Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

Hee Jung Lee

Pro Se

DOES 1-10 inclusive

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#2.00** Status Hearing

RE: [11] Crossclaim by HSBC Bank, N.A. against Jason Young Cho, Youngduk Duk Cho

fr: 1-14-20

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Represented By  
Jennifer Witherell Crastz

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#3.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01386. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5/12/20 AT 10:00 AM..**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Pro Se

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01388 Mastan, Chapter 7 Trustee v. Bank of America, N.A. et al

**#4.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01388. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of America, N.A.. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of America, N.A.

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT...**

**Keystone Textile, Inc.**

Meghann A Triplett  
Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01393 Mastan, Chapter 7 Trustee v. Hwang et al

**#5.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01393. Complaint by Peter J. Mastan, Chapter 7 Trustee against In Young Hwang, Twig & Twine, Inc., Danielle Steckler. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

In Young Hwang

Pro Se

Twig & Twine, Inc.

Pro Se

Danielle Steckler

Pro Se

DOES 1 through 10

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#6.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-21-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01372 Mastan, Chapter 7 Trustee v. Romex Textiles, Inc.

**#7.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01372. Complaint by Peter J. Mastan, Chapter 7 Trustee against Romex Textiles, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-19-20 AT 10:00 A.M**

**Tentative Ruling:**

1/13/2020

Order entered. Status Conference continued to **March 17, 2020, at 10:00 a.m.** pursuant to stipulation.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Romex Textiles, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**CONT... Tbetty, Inc.**

**Chapter 7**



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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#8.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-21-20 AT 10:00 AM..**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
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**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01396 Mastan, Chapter 7 Trustee v. Flintridge Preparatory School, Inc. et al

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01396. Complaint by Peter J. Mastan, Chapter 7 Trustee against Flintridge Preparatory School, Inc., Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 10:00 AM..**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Flintridge Preparatory School, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

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**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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10:00 AM

**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#10.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

fr. 7-16-19; 10-15-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to June 16, 2020 at 10a.m.**

**Tentative Ruling:**

3/16/2020

Order entered. Status Conference **CONTINUED to June 16, 2020, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**United States Bankruptcy Court  
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10:00 AM

**CONT... John F Gallardo**

**Chapter 7**

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

**United States Bankruptcy Court  
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Los Angeles  
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**Tuesday, March 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#11.00** Hearing re [4086] Motion For Entry of an Order Amending Key Employee Incentive Plan and Key Employee Retention Plan

Docket 0

**Tentative Ruling:**

3/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

For the reasons set forth below, the Motion is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Motion for Entry of an Order Amending Key Employee Incentive Plan and Key Employee Retention Plan [Doc. No. 4086] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4086 and 4087 [Doc. No. 4143]
- 2) SEIU-UHW's Opposition to Debtors' Motion for Entry of an Order Amending Key Employee Incentive Plan and Key Employee Retention Plan [Doc. No. 4202]
- 3) Official Committee of Unsecured Creditors' Limited Opposition to Debtors' Notice of Motion and Motion for Entry of an Order Amending Key Employee Incentive Plan and Key Employee Retention Plan [Doc. No. 4203]
- 4) Debtors' Reply to Oppositions filed by the Official Committee of Unsecured Creditors and SEIU-UHW to the Motion for Entry of an Order Amending Key Employee Incentive Plan and Key Employee Retention Plan [Doc. No. 4284] (the "Reply")

**I. Facts and Summary of Pleadings**

Debtors move for an order amending their existing Key Employee Incentive Plan (the "KEIP") and Key Employee Retention Plan (the "KERP"). The Official Committee of Unsecured Creditors (the "Committee") and the Service Employees

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International Union, United Healthcare Workers-West (the "SEIU-UHW") oppose the Motion.

**A. Background**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. As of the Petition Date, the Debtors operated six acute care hospitals (the "Hospitals").

On November 28, 2018, the Court approved the KEIP and the KERP. *See* Doc. No. 893 (the "KEIP/KERP Order"). The KEIP entitled certain key employees (the "KEIP Participants") to receive bonus payments if (1) the Debtors met cash flow targets (the "Cash Flow Metric") and if (2) the Debtors closed the sale of the Hospitals by specified deadlines (the "Closing Metric"). The KERP entitled certain key employees (the "KERP Participants") to receive bonus payments if they remained employed with the Debtors. The Court found that the Debtors had articulated a sufficient business justification for making the bonus payments contemplated by the KEIP and KERP, and that the incentive programs were warranted based upon an application of the factors set forth in *In re Dana Corp.*, 358 B.R. 567 (Bankr. S.D.N.Y. 2006). *See* Doc. No. 814 (Final Ruling Granting Motion for Approval of KEIP and KERP).

On February 28, 2019, the Debtors closed the sale of O'Connor Regional Hospital ("O'Connor") and Saint Louise Regional Hospital ("St. Louise") to Santa Clara County. In mid-2019, the Debtors paid eligible employees of O'Connor and St. Louise their maximum KEIP bonuses under the Closing Metric.

On November 8, 2019, the Court approved an amendment to the KEIP, which extended the deadlines under which the KEIP Participants would be entitled to receive bonuses under the Closing Metric. *See* Doc. Nos. 3550 (Final Ruling Approving Amended KEIP) and 3565 (the "First Amendment Order"). The Court found that the Amended KEIP was appropriate because the delay in the closing of the sale of the Debtors' remaining Hospitals was the result of external circumstances over which the KERP Participants had no control.

On January 8, 2019, the Debtors and Strategic Global Management, Inc. ("SGM") entered into an Asset Purchase Agreement [Doc. No. 2305-1] (the "SGM APA") related to SGM's proposed acquisition (the "SGM Sale") of St. Vincent Medical Center, Seton Medical Center, Seton Coastsides, and St. Francis Medical Center



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**Chapter 11**

(collectively, the “Remaining Hospitals”). SGM did not close the SGM Sale. On December 27, 2019, the Debtors terminated the SGM APA. *See* Doc. No. 3899.

**B. The Proposed Amendments to the KEIP and KERP**

Debtors assert that the changed circumstances resulting from the failure of the SGM Sale require amendments to the KEIP and the KERP. Under the proposed amendments (the “Amendments”), the maximum amount of bonuses payable under the KEIP and the KERP is \$725,000 less than the amount originally approved. The material terms of the Amendments are as follows:

- 1) A pool of \$756,000 will be available to KERP Participants, divided into two parts: (a) \$406,000 for standard bonus payments payable to seven specific persons employed at VHS and Verity Business Systems, and (b) \$350,000 for discretionary payments for other persons not yet-identified and who may include non-insiders anywhere in the system. Both the standard and discretionary pool allow for bonuses that total up to 30% of each KERP Participant’s annual salary.
- 2) KEIP Participants employed at the hospital facility level (the “Entity KEIP Participants”) may receive two bonus payments: (a) a payment equal to 2.5% of the Entity KEIP Participant’s annual salary if the Debtors meet the cash collateral budget and (b) a separate payment equal to 22.5% of the Entity KEIP Participant’s annual salary payable upon disposition of the facility that employs that person.
- 3) KEIP Participants who oversee all of the Debtors (the “VHS KEIP Participants”) are entitled to two bonus payments: (a) a payment equal to 10% of the VHS KEIP Participant’s annual salary (20% for Upper-Level Participants) upon approval of the sale of St. Francis, and (b) a payment up to a maximum of 50% of the VHS KEIP Participant’s annual salary (100% for Upper-Level Participants), payable depending upon the sales proceeds realized from the disposition of the Debtors’ assets. The maximum payment is available only if the aggregate sale proceeds of the assets are at least \$800 million.

**C. Summary of the SEIU-UHW’s Opposition**

The SEIU-UHW makes the following arguments in opposition to the approval of the Amendments:

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**Chapter 11**

The Bonus Programs are not appropriate because there is no reasonable relationship between effort and outcome. The Amended KEIP would award executives if the sales proceeds of the Remaining Hospitals reached \$310 million, which is approximately half the \$610 million purchase price under the SGM APA. The Debtors have not shown that the targets under the Amended KEIP are challenging to meet.

The cost of the Bonus Programs cannot be considered reasonable given the risk of administrative insolvency. In reaching a settlement to reject a collective bargaining agreement with employees represented by SEIU-UHW, the Debtors initially offered to pay employees who had lost their jobs at St. Vincent two weeks' severance. The Debtors later reduced this offer to a total payment of \$500,000, approximately \$200,000 less than the original offer, based upon the demands of the secured lenders. This change in position suggests that the risk of administrative insolvency is high.

Finally, the Bonus Programs unfairly discriminate against the rank-and-file workers who have been required to make substantial sacrifices throughout these bankruptcies. Subsequent to the Petition Date, the Debtors stopped making contributions to the employees' pension plans. The Debtors failed to pay the severance required under the collective bargaining agreement to the employees who lost their jobs at St. Louise and O'Connor, and instead successfully rejected the obligation to pay these sums.

**D. Summary of the Committee's Opposition**

The Committee makes the following arguments in opposition to the approval of the Amendments:

The Committee does not oppose the Amendments in principle, but is concerned that beneficiaries of the KEIP and KERP—who will be administrative creditors—will receive payment in full from the Debtors, while other administrative creditors may not be paid in full. A debtor cannot pick and choose which administrative claims it pays—all administrative claims must be paid in full.

In order for the Motion to be granted, the Debtors should be required to show that they have obtained a commitment from the secured creditors to provide sufficient funding and carve-outs to permit the Debtors to pay all allowed administrative claims in full.

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**E. Summary of the Debtors' Reply to the Oppositions of the SEIU-UHW and the Committee**

The Debtors make the following arguments in reply to the oppositions filed by SEIU-UHW and the Committee:

There is no merit to the contention that the Bonus Programs should not be approved unless the Debtors provide assurances that any and all administrative expenses that may arise will be paid in full. There is no authority for conditioning approval of a bonus program on the full payment of all administrative claims. The Committee's Opposition should be given little weight because the Committee represents only the interests of unsecured creditors and is not charged with advancing the interests of post-petition, administrative creditors.

SEIU-UHW asserts that the hurdles under the KEIP are not sufficiently challenging to meet. SEIU-UHW's argument ignores the fact that under the original KEIP, participants were eligible for a bonus if sales proceeds equaled \$300 million. Under the Amended KEIP, participants do not become eligible for a bonus unless sales proceeds equal \$600 million. The hurdle is now much higher.

Nor is there merit to SEIU-UHW's contention that the KEIP and KERP are unfair to rank-and-file employees. The Debtors have reached a settlement with employees represented by SEIU-UHW, which will provide a pool of \$500,000 to compensate employees who lost their jobs at St. Vincent. SEIU-UHW's only other remaining employees are located at St. Francis, which has remained in better financial condition than St. Vincent from the outset of the case, so it is difficult to see how such employees will be prejudiced by the Amendments.

## **II. Findings and Conclusions**

### **A. The Debtors are Authorized to Amend the KEIP and KERP**

Amendment of a KEIP is appropriate where the amendment is sought as a result of circumstances beyond the control of the key employees. In the bankruptcy of LightSquared Inc., the debtors obtained approval of a KEIP that awarded key employees bonuses if the debtors confirmed a plan by a date certain. The LightSquared debtors' plan timeline was delayed by unforeseen circumstances, including regulatory delays from the Federal Communications Commission. The debtors sought to amend the KEIP to correspond with the delayed plan confirmation timeline. The Bankruptcy Court approved the proposed amendment and "authoriz[ed] LightSquared to modify and extend LightSquared's existing Key Employee Incentive

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**Chapter 11**

Plan to accommodate the current facts and circumstances of the Chapter 11 Cases." *Order Authorizing LightSquared to Modify and Extend Existing Key Employee Incentive Plan*, Case No. 12-bk-12080, Doc. No. 2274 at \*1 (Bankr. S.D.N.Y. Mar. 27, 2015).

Similar to the situation in LightSquared, the circumstances necessitating amendment of the KEIP and KERP are beyond the control of the key employees. The Amendments are necessary because SGM failed to close the SGM Sale. The key employees are not responsible for SGM's failure to close, and could not have taken any actions that would have resulted in SGM closing the sale.

**B. Application of the Dana Corp. Factors Supports Approval of the Amended KEIP**

Courts have relied upon the following factors in evaluating key employee incentive plans such as the plan at issue here:

- Is there a reasonable relationship between the plan proposed and the results to be obtained, i.e., will the key employee stay for as long as it takes for the debtor to reorganize or market its assets, or, in the case of a performance incentive, is the plan calculated to achieve the desired performance?
- Is the cost of the plan reasonable in the context of the debtor's assets, liabilities and earning potential?
- Is the scope of the plan fair and reasonable; does it apply to all employees; does it discriminate unfairly?
- Is the plan or proposal consistent with industry standards?
- What were the due diligence efforts of the debtor in investigating the need for a plan; analyzing which key employees need to be incentivized; what is available; what is generally applicable in a particular industry?
- Did the debtor receive independent counsel in performing due diligence and in creating and authorizing the incentive compensation?

*In re Dana Corp.*, 358 B.R. 567, 576–77 (Bankr. S.D.N.Y. 2006).

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The Amended KEIP and KERP are consistent with the factors set forth in *Dana Corp.* First, there is a reasonable relationship between the Bonus Programs and the desired results (the orderly disposition of the Remaining Hospitals). The Court has previously found that a KEIP that provided bonuses if sale proceeds of the Debtors' assets equaled at least \$300 million was calculated to achieve the desired performance. The Amended KEIP significantly ups that hurdle, entitling participants to a bonus only if sale proceeds equal at least \$600 million.

The Court does not agree with SEIU-UHW's assertion that the \$600 million hurdle will not incent performance because it can be easily achieved. SEIU-UHW correctly points out that the Remaining Hospitals would have to sell for only \$310 million, approximately half the price contemplated by the failed SGM Sale, to meet this benchmark. However, the sales price under the SGM APA does not reliably predict the value likely to be realized from the sale of the Remaining Hospitals. The closure of St. Vincent has substantially reduced its value. In addition, the fact that SGM refused to close the SGM Sale means that the Court cannot rely upon the price under the SGM APA as an indication of the Remaining Hospital's market value.

Second, the cost of the Amended KEIP and KERP are reasonable within the context of the Debtors' assets and liabilities. The amended incentive programs are \$725,000 less costly than the original incentive programs which the Court has already found to be reasonable.

SEIU-UHW argues that the costs of the incentive plans are unreasonable because it cannot be certain that the sale of the Remaining Hospitals will yield proceeds sufficient to pay both the secured lenders and all administrative claimants in full. The Court declines to condition approval of the incentive programs upon a guarantee of full payment of administrative claims. As the Court observed in connection with the Committee's objection to the Third Amended Cash Collateral Stipulation, in any bankruptcy case there is always some risk that there will not be sufficient cash available at the confirmation stage to fully pay all administrative creditors. SEIU-UHW's speculation that this case could be administratively insolvent does not warrant a finding that the Amendments are unreasonably costly.

Third, the scope of the Amended KEIP and KERP are fair and reasonable, and the programs do not discriminate unfairly. The KEIP applies to only those employees whose efforts are critical to ensure a successful sale of the Debtors' assets, and has been carefully crafted to award different payments to different employees, depending upon their anticipated role in the sales process. Similarly, the KERP applies only to those employees whose retention is critical to the Debtors' ability to sustain

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operations pending the sale of the Remaining Hospitals.

SEIU-UHW contends that the incentive programs discriminate unfairly because they enable the KEIP and KERP Participants to receive bonus payments while at the same time employees represented by SEIU-UHW have been subjected to economic sacrifices, including the suspension of pension plan contributions and the loss of severance. The Court declines to adopt SEIU-UHW's position, which would make it extremely difficult for a debtor to obtain approval of a key employee incentive plan or key employee retention plan in almost any bankruptcy case. In most cases, the debtor's employees face reduced wages or benefits.

The Court is not unmindful of the contribution made by SEIU-UHW's employees to the continued operation of the Hospitals, and it is regrettable that such employees have been required to forego certain benefits, such as the continued receipt of pension plan contributions. The Court must be equally mindful of the key role that the KEIP and KERP Participants will play in bringing the sale of the Remaining Hospitals to a successful conclusion. Absent the Bonus Programs, there is a very real risk that KEIP and KERP Participants may seek employment elsewhere. Several key employees of the Debtors have already departed, notwithstanding the existing Bonus Programs—including VHS' Chief Financial Officer and Chief Information Officer, Seton's Chief Executive Officer, Chief Financial Officer, and two successive Chief Nursing Officers. Absent the Amendments additional departures would be highly likely. Such departures would impair operations at the Hospitals and create additional obstacles to successful sales, which would be to no one's benefit.

Fourth, the Debtors developed the Amendments in consultation with their financial advisors, Berkeley Research Group, LLC. The Debtors performed sufficient due diligence in creating the Amendments, which have been carefully tailored to the circumstances of these cases.

**C. The Committee's Objection is Overruled**

The Committee argues that the Amendments should not be approved unless the Debtors obtain a commitment from the secured creditors to provide sufficient funding to pay all administrative claims in full. The Committee presented a similar argument in opposition to approval of the Third Amended Cash Collateral Stipulation, which the Court overruled. *See* Doc. Nos. 4254 and 4261. The Committee's objection fares no better within the context of the current Motion. The *Dana Corp.* factors do not require that approval of an incentive program be conditioned upon the guaranteed payment of all administrative claims.

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**D. The Amended KEIP and KERP Satisfy the Business Judgment Standard**

Section 363(b)(1) authorizes the Debtors to use property of the estate, other than in the ordinary course of business, after notice and a hearing. The Debtors are required to articulate a business justification for use of estate property outside the ordinary course of business. *Walter v. Sunwest Bank (In re Walter)*, 83 B.R. 14, 19–20 (9th Cir. BAP 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19–20.

Here, the Debtors have sufficiently articulated a business justification for the Amended KEIP and KERP, for all the reasons discussed above.

Section 503(c)(3) requires that payments to a debtor's employees outside the ordinary course of business be "justified by the facts and circumstances of the case" to be allowable as an administrative expense. The majority of courts have found that this standard is no different from the business judgment standard under §363(b). *See, e.g., Global Home Prods.*, 369 B.R. at 783-84; *In re Velo Holdings, Inc.*, 472 B.R. 201, 212 (Bankr. S.D.N.Y. 2012) (collecting cases); *In re Nobex Corp.*, 2006 WL 4063024 (Bankr. D. Del. Jan. 19, 2006) (concluding that § 503(c)(3) was nothing more than a reiteration of the standard under § 363 under which courts had previously authorized transfers outside the ordinary course of business based on the business judgment of the debtor).

Having found the payments under the Amended KEIP and KERP to be appropriate under § 363(b)(1), the Court finds that such payments also meet the standard set forth in § 503(c)(3). Payments under the Amended KEIP and KERP are therefore allowable as administrative expenses.

**E. The Debtors Are Authorized to File Certain Information Under Seal**

In connection with the Debtors' motion for approval of the original KEIP and KERP, the Court authorized the Debtors to file under seal the identity and salary of the employees subject to the incentive programs (the "Confidential Information"). The Debtors have presented the Confidential Information for filing under seal in connection with this Motion. For the reasons set forth in the Final Ruling approving the original KEIP and KERP, *see* Doc. No. 814, the Debtors are authorized to file the Confidential Information under seal.

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED**.

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



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**Tuesday, March 17, 2020**

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**2:18-20151 Verity Health System of California, Inc.**

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**#12.00** HearingRE: [4151] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And Motion To (A) Reject Provider Agreement With Blue Shield Of California, And (B) Enforce Automatic Stay; Memorandum Of Points And Authorities; Declaration Of Richard G. Adcock

Docket 4151

**Tentative Ruling:**

3/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

For the reasons set forth below, the Motion is **GRANTED IN PART** and **DENIED IN PART**. Blue Shield shall pay St. Vincent 70% of the estimated January 2020 Capitation Payment by no later than **March 27, 2020**. Blue Shield shall pay the remaining 30% of the payment by no later than **May 1, 2020**. The Court declines the Debtors' request to hold Blue Shield in contempt.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Motion to (A) Reject Provider Agreement with Blue Shield of California, and (B) Enforce Automatic Stay [Doc. No. 4151] (the "Motion")
- 2) Blue Shield of California's (I) Notice of Non-Opposition to Debtors' Motion to Reject Provider Agreement and (II) Objection to Debtors' Motion to Enforce Automatic Stay [Doc. No. 4204]
- 3) Debtors' Reply to Blue Shield of California's Objection to Motion to Enforce Automatic Stay [Doc. No. 4245]
- 4) Blue Shield of California's Evidentiary Objections to Declaration of Richard G. Adcock Made in Support of Debtors' Reply to Blue Shield of California's Objection to Motion to Enforce Automatic Stay

**I. Facts and Summary of Pleadings**

Debtors move to (a) reject a *Provider Agreement HMO Commercial Capitated*

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*Hospital* (the “Agreement”) and (b) to enforce the automatic stay against California Physicians’ Service dba Blue Shield of California (“Blue Shield”), the counterparty to the Agreement, based upon Blue Shield’s failure to remit to the Debtors the final capitation payment due under the Agreement. Blue Shield does not oppose rejection of the Agreement but does oppose the enforcement of the automatic stay.

Under the Agreement, Debtor St. Vincent Medical Center (“St. Vincent”) provided health care services to members enrolled in various health benefit plans offered by Blue Shield. The Agreement required Blue Shield to reimburse St. Vincent in two ways: (1) by making fee-for-service (“FFS”) payments on account of specific services provided by St. Vincent to members enrolled in Blue Shield’s health benefit plans and (2) by making fixed, monthly “per member, per month” payments, also known as capitation payments (the “Capitation Payments”). The Agreement required Blue Shield to make the Capitation Payments regardless of the amount of health care services that St. Vincent delivered to Blue Shield’s members. In other words, the Agreement placed the risk of the cost of the healthcare services upon St. Vincent.

Blue Shield has not made the final Capitation Payment due under the Agreement but has made the prior 83 Capitation Payments. Debtors assert that the final Capitation Payment came due in January 2020. The Debtors contend that Blue Shield’s failure to make the January 2020 payment constitutes an attempt to exercise control over property of the estate, in violation of § 362(a)(3). The Debtors seek contempt sanctions against Blue Shield for this alleged violation of the automatic stay.

Blue Shield states that it does not intend to breach its obligation to make the January 2020 Capitation Payment. Blue Shield contends that it is still calculating the amount due under the final Capitation Payment. According to Blue Shield, calculating the final Capitation Payment is more difficult for the following reasons:

- 1) The Agreement provides a 90-day adjustment period for Blue Shield to retroactively delete members. Blue Shield is not required to make capitation payments for members who have been retroactively deleted. Blue Shield’s normal process is to offset overpayments on account of retroactively deleted members against future capitation payments. That is not possible because the January 2020 payment is the final Capitation Payment.
- 2) Under the Agreement, Blue Shield is not required to pay a capitation fee on account of otherwise eligible members if St. Vincent has received capitation fees from other insurers on account of those members. Blue Shield has not received any information from the Debtors regarding their receipt of capitation

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payments from other insurers or health plans, making it impossible for Blue Shield to calculate the correct amount of the final Capitation Payment.

- 3) Blue Shield is not obligated to pay capitation for periods of time during which St. Vincent was not providing services. Blue Shield is calculating adjustments to the Capitation Payment necessitated by the closure of St. Vincent.

Debtors contend that any adjustments to the final Capitation Payment will be *de minimis*. Debtors further assert that there are no contractual justifications for Blue Shield's delay in making the final Capitation Payment. The Debtors respond to Blue Shield's arguments as follows:

- 1) Blue Shield's assertion that capitation payments are not owed on account of retroactively deleted members misreads the Agreement. Under the Agreement, if Blue Shield retroactively deletes a member and if St. Vincent had provided treatment to that patient at the time (that is, before St. Vincent was informed of the retroactive deletion), then Blue Shield's obligation to compensate St. Vincent for such treatment (now on a fee-for-service basis) would not be triggered if St. Vincent had been paid for such services from another plan. The provision is irrelevant to Blue Shield's obligation to pay regular capitation.
- 2) Blue Shield's assertion that it is not obligated to pay capitation if St. Vincent ceases to provide services is not correct. Under the Agreement, St. Vincent assumed full financial responsibility for all services provided to members either by St. Vincent or by other healthcare providers. Whether or not St. Vincent was capable of providing services, it remained liable for all services provided by itself, or by other providers, during January 2020.
- 3) Blue Shield's contention that it lacks the ability to recoup any overpayment of the January 2020 Capitation Payment is not correct. The Agreement requires Blue Shield to reimburse St. Vincent for FFS services. Any overpayments could be recouped against subsequent FFS reimbursements.

## **II. Findings and Conclusions**

### **A. The Court Declines to Consider the Supplemental Adcock Declaration**

In connection with their reply brief, the Debtors submitted an additional declaration from Richard G. Adcock (the "Supplemental Adcock Decl."), which set forth new evidence not contained in the Motion. Blue Shield submitted numerous evidentiary objections to the Supplemental Adcock Decl.

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Local Bankruptcy Rule ("LBR") 9013-1(g)(4) prohibits the introduction of new evidence or arguments in reply papers. LBR 9013-1(g)(4) is a codification of the Ninth Circuit's well-established "general rule that [litigants] cannot raise a new issue for the first time in their reply briefs." *Martinez-Serrano v. I.N.S.*, 94 F.3d 1256, 1259 (9th Cir. 1996); *see also Sweet v. Pfizer*, 232 F.R.D. 360, 364 n.7 (C.D. Cal. 2005) (refusing to consider a declaration because "the moving party in a motion cannot submit new information as part of its Reply.").

The Court declines to consider the Supplemental Adcock Decl. To do so would deprive Blue Shield of the opportunity to respond to the new evidence set forth therein.

**B. The Court Cannot Determine Whether Blue Shield Willfully Violated the Automatic Stay Without Reviewing the Entire Agreement**

The parties have not submitted the Agreement for the Court's review. The Debtors state that the terms of the Agreement are confidential pursuant to a clause within the Agreement. Blue Shield has submitted excerpts of several sections of the Agreement in connection with its Opposition, but has omitted the majority of the Agreement.

The Court declines to hold Blue Shield in contempt for allegedly willfully violating the automatic stay, as requested by the Debtors. "Courts should be cautious when authorizing contempt proceedings.... Contempt is serious business that nobody takes lightly." *Costa v. Welch (In re Costa)*, 172 B.R. 954, 963 (Bankr. E.D. Cal. 1994). The record before the Court consists only of the parties' characterizations of the Agreement and a short excerpt from the Agreement submitted by Blue Shield. This record is far from sufficient to support the imposition of a remedy as serious as contempt against Blue Shield. That is especially the case given the complexity of the Agreement.

**C. Blue Shield Shall Remit 70% of the Estimated Final Capitation Payment to the Debtors by No Later than March 27, 2020**

Although the record is not sufficiently developed to support a finding that Blue Shield's failure to promptly remit the January 2020 Capitation Payment violated the automatic stay, the excerpt of the Agreement submitted by Blue Shield provides that "[c]apitation shall be paid no later than the fifteenth (15th) day of the month, if Hospital accepts electronic payments; otherwise, Capitation for such Members shall be paid no later than the twentieth (20th) day of the month." Agreement at § 5.1(a).

Blue Shield asserts that the final Capitation Payment may be subject to various

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offsets. The Debtors contend that any offsets will be *de minimis*, and that Blue Shield has the ability to recover those offsets from future FFS payments due under other provisions of the Agreement.

The Adcock Declaration filed in support of the Motion establishes that during 2019, Blue Shield's monthly capitation payments ranged between \$58,000 and \$73,000. Blue Shield has not contested Mr. Adcock's characterization of its prior payment history. The Court will require Blue Shield to pay the Debtors 70% of the estimated January 2020 Capitation Payment by no later than **March 27, 2020**. Based on Mr. Adcock's uncontroverted testimony regarding the range of Blue Shield's prior payments, the Court finds that requiring Blue Shield to pay 70% of the estimated January 2020 Capitation Payment will provide more than sufficient cushion for any offsets that may be subsequently required.

Blue Shield states that it will have calculated the final amount owed under the January 2020 Capitation Payment within 90 days. Based upon that representation, Blue Shield is ordered to pay the remaining 30% of the January 2020 Capitation Payment to St. Vincent by no later than **May 1, 2020**.

**D. The Debtors are Authorized to Reject the Agreement**

Section 365(a) provides that the Debtors, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Casterter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the

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debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreement. As a result of the closure of St. Vincent, the Agreement provides no benefit to the estates, and the Debtors' continued performance under the Agreement would only burden the estates with unnecessary expenses. Rejection of the Agreement shall be effective as of **January 31, 2020**.

The deadline for Blue Shield to file a proof of claim arising from the rejection of the Agreement, pursuant to Bankruptcy Rule 3002(c)(4), shall be **June 1, 2020** (the "Rule 3002(c)(4) Claims Bar Date"). Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by Blue Shield by no later than **March 23, 2020**. Debtors shall file a proof of service of such notice by no later than **March 23, 2020**.

### **III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED IN PART** and **DENIED IN PART**. Blue Shield shall pay St. Vincent 70% of the estimated January 2020 Capitation Payment by no later than **March 27, 2020**. Blue Shield shall pay the remaining 30% of the payment by no later than **May 1, 2020**. The Court declines the Debtors' request to hold Blue Shield in contempt.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Verity Health System of California,

Represented By

**United States Bankruptcy Court  
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Los Angeles  
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**#13.00** HearingRE: [4139] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And Fifth Omnibus Motion To Reject, Pursuant To 11 U.S.C. § 365(A), Various Additional OConnor Hospital And Saint Louise Regional Hospital Agreements; Memorandum Of Points And Authorities; Declaration Of Richard G. Adcock

Docket 4139

**Tentative Ruling:**

3/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

For the reasons set forth below, the Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Fifth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Various Additional O'Connor Hospital and Saint Louise Regional Hospital Agreements [Doc. No. 4139] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Debtors' Notice of Motion and Fifth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Various Additional O'Connor Hospital and Saint Louise Regional Hospital Agreements [Doc. No. 4177]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' Chapter 11 cases are being jointly administered. *See* Doc. No. 17.

The Debtors seek authorization to reject certain executory contracts and unexpired leases (collectively, the "Agreements") pursuant to § 365(a), effective *nunc pro tunc* as of December 31, 2019. The Agreements consist of executory contracts with O'Connor Hospital and St. Louise Regional Hospital that were not previously rejected



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or assigned in connection with the sale of those hospitals to Santa Clara County (the "Santa Clara Sale"). Following the Santa Clara Sale, the Agreements remained in place to fulfill the parties' transition and post-closing obligations. Debtors assert that the Agreements provide no further benefit to the estates because the transitional service period ended on December 31, 2019.

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Section 365(a) provides that the Debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Castetter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreements. The Debtors have demonstrated that the Agreements are no longer necessary given the end of the transitional services period. The Debtors' continued performance under the Agreements would burden the estates with unnecessary expenses. Rejection of the Agreements shall be effective as of **December 31, 2019**.

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The deadline for counterparties to the Agreements to file a proof of claim arising from the rejection of the applicable Agreement, pursuant to Bankruptcy Rule 3002(c)(4), shall be **May 1, 2020** (the “Rule 3002(c)(4) Claims Bar Date”). Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by counterparties by no later than **March 23, 2020**. Debtors shall file a proof of service of such notice by no later than **March 23, 2020**.

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** to the extent set forth herein. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge’s Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

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**#14.00** HearingRE: [4133] Motion to Reject Lease or Executory Contract Debtors' Notice of Motion and Fourth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(A), Certain Executory Contracts and Unexpired Leases; Memorandum of Points and Authorities; Declaration of Richard G. Adcock

Docket 4133

**Tentative Ruling:**

3/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

For the reasons set forth below, the Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Fourth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Executory Contracts and Unexpired Leases [Doc. No. 4133] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4053, 4126, 4132 and 4133 [Doc. No. 4175]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' Chapter 11 cases are being jointly administered. *See* Doc. No. 17.

On January 9, 2020, the Court granted the Debtors' emergency motion for authorization to close St. Vincent Medical Center ("St. Vincent"). *See* Doc. No. 3934 (the "Closure Order"). Pursuant to the Closure Order, emergency services were discontinued as of January 9, 2020, the dialysis center was closed as of January 13, 2020, all inpatients were discharged or transferred as of January 18, 2020, all outpatient visits ceased as of January 22, 2020, and all transplant candidates were

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transferred as of January 23, 2020. *See* Doc. No. 3982 (status report describing closure of St. Vincent).

The Debtors seek authorization to reject certain executory contracts and unexpired leases (collectively, the "Agreements") pursuant to § 365(a), effective as of February 21, 2020 (the filing date of the Motion). Certain of the Agreements relate to St. Vincent; others relate to operations at the Debtors' remaining hospitals. The Debtors state that the Agreements are no longer needed for ongoing operations and that remaining obligated on the Agreements provides no benefit to the Debtors' estates.

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Section 365(a) provides that the Debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Casterter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreements. The Debtors have demonstrated that the Agreements are no longer

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necessary to operate their business and provide no benefit to the estates. The Debtors' continued performance under the Agreements would burden the estates with unnecessary expenses. Rejection of the Agreements shall be effective as of **February 21, 2020**.

The deadline for counterparties to the Agreements to file a proof of claim arising from the rejection of the applicable Agreement, pursuant to Bankruptcy Rule 3002(c)(4), shall be **May 1, 2020** (the "Rule 3002(c)(4) Claims Bar Date"). Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by counterparties by no later than **March 23, 2020**. Debtors shall file a proof of service of such notice by no later than **March 23, 2020**.

The deadline for equipment lessors to retrieve equipment located at the Debtors' premises shall be **April 10, 2020** (the "Retrieval Deadline"). [**Note 1**] The Debtors shall provide notice of the Retrieval Deadline so that it is actually received by the equipment lessors by no later than **March 23, 2020**. Debtors shall file a proof of service of such notice by no later than **March 23, 2020**. Equipment lessors shall coordinate with the Debtors' personnel with respect to the retrieval of their equipment. Any equipment not retrieved by the Retrieval Deadline shall be deemed abandoned to the estates.

Notwithstanding the possible applicability of Bankruptcy Rule 6006(d), the order granting the Motion shall take effect immediately.

### **III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** to the extent set forth herein. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

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**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

The Debtors have requested a Retrieval Deadline of March 31, 2020. The Court finds that the March 31, 2020 deadline would not provide sufficient notice to equipment lessors.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-19286 Carnaval de Autos**

**Chapter 7**

**#100.00** APPLICANT: Charges, U.S. Bankruptcy Court

Hearing re [60] and [61] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

3/16/2020

See Cal. No. 101, incorporated herein in full by reference.

**Party Information**

**Debtor(s):**

Carnaval de Autos

Represented By  
Eric Bensamochan

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Benjamin Nachimson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-19286 Carnaval de Autos**

**Chapter 7**

**#101.00 APPLICANT: Trustee: DAVID M GOODRICH**

Hearing re [60] and [61] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

3/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$5,250 [*see* Doc. No. 60]

Total Expenses: \$130.50 [*see id.*]

U.S. Bankruptcy Court Charges: \$350 [*see id.*]

Franchise Tax Board Administrative Expenses: \$1,795.68 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing. **To reduce the spread of coronavirus, telephonic appearances are strongly encouraged for all non-evidentiary hearings, absent good cause to appear in person.**



**United States Bankruptcy Court  
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**CONT... Carnaval de Autos**

**Chapter 7**

**Through April 30, 2020, self-represented (pro se) parties may appear telephonically through Court Call for free.**

The Trustee shall submit a conforming order within seven days of the hearing.

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

**Debtor(s):**

Carnaval de Autos

Represented By  
Eric Bensamochan

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Benjamin Nachimson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-19286 Carnaval de Autos**

**Chapter 7**

**#102.00** APPLICANT: Hahn, Fife & Company, Accountant for Trustee

Hearing re [60] and [61] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

3/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$2,152 approved [*see* Doc. No. 58]

Expenses: \$344.60 approved [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

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

**Debtor(s):**

Carnaval de Autos

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

---

11:00 AM

**CONT... Carnaval de Autos**

**Chapter 7**

Eric Bensamochan

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Benjamin Nachimson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-19286 Carnaval de Autos**

**Chapter 7**

**#103.00** APPLICANT: Woolf & Nachimson, LLP, Attorney for Trustee

Hearing re [60] and [61] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

3/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$25,000 approved [*see* Doc. No. 57]

Applicant did not request payment of any expenses.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Carnaval de Autos

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

---

11:00 AM

**CONT... Carnaval de Autos**

**Chapter 7**

Eric Bensamochan

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Benjamin Nachimson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-19286 Carnaval de Autos**

**Chapter 7**

**#104.00 APPLICANT: Franchise Tax Board (Administrative)**

Hearing re [60] and [61] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

3/16/2020

See Cal. No. 101, incorporated herein in full by reference.

**Party Information**

**Debtor(s):**

Carnaval de Autos

Represented By  
Eric Bensamochan

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Benjamin Nachimson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, March 18, 2020**

**Hearing Room 1568**

9:30 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01001 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#1.00** Hearing

RE: [39] Motion - Defendants Notice of Motion and Special Motion to Strike Plaintiffs Complaint Pursuant to Cal. Civ. Proc. Code § 425.16; Memorandum of Points and Authorities -

fr. 3-11-20

Docket 39

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 3-9-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

Kali P. Chaudhuri, M.D., an

Represented By

Gary E Klausner

Strategic Global Management, Inc.,

Represented By

Jeffrey S Kwong

Gary E Klausner





**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, March 18, 2020**

**Hearing Room 1568**

9:30 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01001 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#2.00** Hearing

RE: [40] Motion to Dismiss Adversary Proceeding - Defendants Notice of Motion and Motion to Dismiss Plaintiffs Complaint [Fed. R. Civ. Proc. 12(b)(1) & 12(b)(6)] -

fr. 3-11-20

Docket 40

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 3-9-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

Kali P. Chaudhuri, M.D., an

Represented By

Gary E Klausner

Strategic Global Management, Inc.,

Represented By

Jeffrey S Kwong

Gary E Klausner

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, March 18, 2020**

**Hearing Room 1568**

9:30 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

KPC Healthcare Holdings, Inc., a                      Represented By  
   Gary E Klausner

KPC Health Plan Holdings, Inc., a                      Represented By  
   Gary E Klausner

KPC Healthcare, Inc., a Nevada                      Represented By  
   Gary E Klausner

KPC Global Management, LLC, a                      Represented By  
   Gary E Klausner

Does 1 through 500                                      Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF                      Represented By  
   Samuel R Maizel  
   Tania M Moyron

ST. VINCENT MEDICAL                              Represented By  
   Samuel R Maizel  
   Tania M Moyron

St Vincent Dialysis Center, Inc., a                      Represented By  
   Samuel R Maizel  
   Tania M Moyron

ST. FRANCIS MEDICAL                              Represented By  
   Samuel R Maizel  
   Tania M Moyron

Seton Medical Center, a California                      Represented By  
   Samuel R Maizel  
   Tania M Moyron

Verity Holdings, LLC, a California                      Represented By  
   Samuel R Maizel  
   Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, March 18, 2020

Hearing Room 1568

10:00 AM

**2:15-16111 Jung Hee Choi**

**Chapter 7**

Adv#: 2:15-01381 DOOIN INDUSTRIAL CORPORATION, a foreign corporatio v. Choi

**#100.00** Hearing re re [109] Appearance and Examination/Enforcement of Judgment/Judgment debtor ***JUNG HEE CHOI, AKA JUNG HEE LEE, DBA THE HUGE TREE***

fr. 1-8-20

Docket 0

\*\*\* VACATED \*\*\* REASON: Cont'd to 5/6/2020 at 10:00 a.m.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jung Hee Choi

Represented By  
Kelly K Chang

**Defendant(s):**

Jung Hee Choi

Pro Se

**Plaintiff(s):**

DOOIN INDUSTRIAL

Represented By  
Nico N Tabibi

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, March 18, 2020

Hearing Room 1568

10:00 AM

**2:15-16111 Jung Hee Choi**

**Chapter 7**

Adv#: 2:15-01381 DOOIN INDUSTRIAL CORPORATION, a foreign corporatio v. Choi

**#101.00** Hearing re [110] Application for Appearance and Examination/Enforcement of Judgment/Judgment Debtor ***Sun Kyung Lee, aka Sunny Lee, dba Piussance Textile Company.***

fr. 1-8-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: Cont'd to 5/6/20 @ 10am**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jung Hee Choi

Represented By  
Kelly K Chang

**Defendant(s):**

Jung Hee Choi

Pro Se

**Plaintiff(s):**

DOOIN INDUSTRIAL

Represented By  
Nico N Tabibi

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, March 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:15-25183 Friendly Adult Day Healthcare Center, Inc.**

**Chapter 7**

**#102.00** Other: FRANCHISE TAX BOARD

Hearing re [68] Applications for chapter 7 fees and administrative expenses.

Docket 0

**Tentative Ruling:**

3/17/2020

See Cal. No. 106, below, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Friendly Adult Day Healthcare

Represented By  
Kelly F Ryan

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Paul R Shankman  
James Andrew Hinds Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Wednesday, March 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:15-25183 Friendly Adult Day Healthcare Center, Inc.**

**Chapter 7**

**#103.00** Charges: UNITED STATES BANKRUPTCY COURT

Hearing re [68] Applications for chapter 7 fees and administrative expenses.

Docket 0

**Tentative Ruling:**

3/17/2020

See Cal. No. 106, below, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Friendly Adult Day Healthcare

Represented By  
Kelly F Ryan

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Paul R Shankman  
James Andrew Hinds Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, March 18, 2020

Hearing Room 1568

10:00 AM

2:15-25183 Friendly Adult Day Healthcare Center, Inc.

Chapter 7

#104.00 APPLICANT: Accountant for Trustee: SLBIGGS, A Division of Singer Lewak

Hearing re [68] Applications for chapter 7 fees and administrative expenses.

Docket 0

**Tentative Ruling:**

3/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below:

Fees: \$16,022.00 (only \$10,000.00 to be paid because the case is administratively insolvent)

Expenses: \$123.74 (only \$27.28 to be paid because the case is administratively insolvent)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, March 18, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Friendly Adult Day Healthcare Center, Inc.**

**Chapter 7**

**Debtor(s):**

Friendly Adult Day Healthcare

Represented By  
Kelly F Ryan

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Paul R Shankman  
James Andrew Hinds Jr



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, March 18, 2020

Hearing Room 1568

10:00 AM

2:15-25183 Friendly Adult Day Healthcare Center, Inc.

Chapter 7

#105.00 APPLICANT: Attorney for Trustee: Hinds & Shankman, LLP

Hearing re [68] Applications for chapter 7 fees and administrative expenses.

Docket 0

**Tentative Ruling:**

3/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below:

Fees: \$211,958.00 (only \$39,453.30 to be paid because the case is administratively insolvent)

Expenses: \$1,384.83 (only \$305.37 to be paid because the case is administratively insolvent)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, March 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Friendly Adult Day Healthcare Center, Inc.**

**Chapter 7**

**Debtor(s):**

Friendly Adult Day Healthcare

Represented By  
Kelly F Ryan

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Paul R Shankman  
James Andrew Hinds Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, March 18, 2020

Hearing Room 1568

10:00 AM

2:15-25183 Friendly Adult Day Healthcare Center, Inc.

Chapter 7

#106.00 APPLICANT: Trustee ROSENDO GONZALEZ

Hearing re [68] Applications for chapter 7 fees and administrative expenses.

Docket 0

**Tentative Ruling:**

3/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$6,413.15

Total Expenses: \$91.53

Court costs: \$5,600.00

Tax Payment to the Franchise Tax Board: \$818.00

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, March 18, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Friendly Adult Day Healthcare Center, Inc.**

**Chapter 7**

**Debtor(s):**

Friendly Adult Day Healthcare

Represented By  
Kelly F Ryan

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Paul R Shankman  
James Andrew Hinds Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, March 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11284 Damu Vusha and Akiba Vusha**

**Chapter 11**

**#107.00** Post-Confirmation Status Conference

fr. 11-19-19

Docket 156

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-31-20 AT 10:00 AM..**

**Tentative Ruling:**

11/18/2019

For the reasons set forth below, the Plan is CONFIRMED.

**Pleadings Filed and Reviewed**

1. Debtors' Disclosure Statement Describing Chapter 11 Plan of Reorganization [Doc. No. 102] (the "Disclosure Statement")
2. Debtors' Chapter 11 Plan of Reorganization [Doc. No. 103]
3. Debtors' Motion Under LBR 9019 to Approve Compromise Between Individual Debtors Damu Vusha and Akiba Vusha and Creditors Wells Fargo Bank, N,A, and US Bank National Association [Doc. No. 73]
4. Order Granting Debtors' Motion Under LBR 9019 to Approve Compromise Between Individual Debtors Damu Vusha and Akiba Vusha and Creditors Wells Fargo Bank, N,A, and US Bank National Association [Doc. No. 82]
5. Stipulation Re: Non-Material Modification to Debtors' Chapter 11 Disclosure Statement and Plan to Clarify Treatment of Claim Per Stipulation [Doc. No. 107] (the "JPMorgan Stipulation")
6. Order on Stipulation Re: Non-Material Modification to Debtors' Chapter 11 Disclosure Statement and Plan to Clarify Treatment of Claim Per Stipulation [Doc. No. 109] (the "Order on JPMorgan Stipulation")
7. Order Approving Debtors' Disclosure Statement in Support of Plan of Reorganization [Doc. No. 120]
8. Notice of Hearing Re: Plan Confirmation and Plan Related Deadlines [Doc. No. 119]
9. Declaration of Peter Garza Regarding Service of the Solicitation Package [Doc. No. 122]
10. Motion to Approve Stipulation for Plan Treatment on First Lien Secured by Real

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT... Damu Vusha and Akiba Vusha Chapter 11**

- Property Located at 1300 West 69th Street, Los Angeles, CA 90044-2535 [Doc. No. 130] (the "CSMC 2018-RPL8 Trust Stipulation")
11. Order Granting Motion to Approve Stipulation for Plan Treatment on First Lien Secured by Real Property Located at 1300 West 69th Street, Los Angeles, CA 90044-2535 [Doc. No. 138] (the "Order on CSMC 2018-RPL8 Trust Stipulation")
  12. Notice of Motion and Motion to Confirm Debtors' Chapter 11 Plan of Reorganization [Doc. No. 133]
  13. Plan Ballot Summary [Doc. No. 135].
  14. Fifth Interim Report of Patient Care Ombudsman Pursuant to 11 U.S.C. § 333(b) (2) [Doc. No. 139]
  15. Tentative Ruling on Debtor's Motion For Order Continuing Chapter 11 Plan (the "Tentative Ruling") [Doc. No. 143]
  16. Scheduling Order (the "Scheduling Order") [Doc. No. 144]
  17. Brief Amended in Support of Debtors' Motion for Confirmation of Chapter 11 Plan of Reorganization (the "Supplemental Confirmation Brief") [Doc. No. 148]
  18. Order Denying Debtors' Motion For Confirmation Of Chapter 11 Plan Of Reorganization [Doc. No. 152]
  19. Amended Chapter 11 Plan (the "Amended Plan," or the "Plan") [Doc. No. 154]
  20. Motion for order confirming chapter 11 plan Debtor's Motion to Convert Debtors' Amended Chapter 11 Plan of Reorganization (the "Amended Confirmation Brief") [Doc. No. 156]

## **I. Facts and Summary of Pleadings**

Debtors-in-possession, Damu Vusha and Akiba Vusha (the "Debtors"), filed this voluntary Chapter 11 case on February 5, 2018 (the "Petition Date"). The Debtors' primary assets consist of three real properties: (1) their principal residence located at 6122 S. Kings Road, Los Angeles, CA 90056 (the "Principal Residence"); (2) 5150 S. Wilton Place, Los Angeles, CA 90062 (the "Wilton Property"); and 1300 W. 69th Street, Los Angeles, CA 90044 (the "69th Street Property") (collectively, the "Properties"). The Debtors also own and operate a residential care facility called Jatkodd Crisis Intervention Center (the "Business") which provides 24/7 care to four developmentally-disabled individuals. The Business operates out of the Wilton Property and pays the Debtors' monthly rent. The Debtors state that post-petition operations from the Business have been profitable. The Debtors also lease out the 69th Street Property for additional monthly income.

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

CONT... **Damu Vusha and Akiba Vusha**

**Chapter 11**

On August 7, 2019, the Court held a hearing regarding Debtors' first Chapter 11 plan of reorganization [Doc. No. 103], which was then continued to September 24, 2019 [Doc. No. 144] to afford Debtors the opportunity to address various issues with the first plan's proposed terms [**Note 1**]. Having reviewed the Supplemental Confirmation Brief, the Court denied Debtors' first plan without prejudice, finding that the plan could not be crammed down on Class 2(A)—an impaired class deemed to reject the plan. Under the terms of the previous plan, the Debtors would have infringed the absolute priority rule as they proposed to retain their interests in the Properties without providing new value contributions, and while failing to pay Class 2(A) claimants, consisting of general unsecured creditors, an amount equal to their claims. In its denial order, the Court authorized Debtors to modify their plan as needed to ensure that Class 2(A) claimants would be paid with an appropriate interest rate, thereby satisfying the cram down requirements of §1129(b)(2).

On October 4, 2019, the Debtors filed the Amended Confirmation Brief seeking to confirm the Amended Plan, therein addressing the aforementioned issue. Based on the findings and conclusions set forth below, the Court finds it appropriate to CONFIRM the Amended Plan.

**Summary of the Amended Plan**

***Administrative Claims***

The Debtors anticipate having the following administrative claims as of the Effective Date:

- i. Law Offices of Michael Jay Berger ("Debtors' Counsel"): \$15,000
- ii. Jennifer Min Liu ("Debtors' Accountant"): \$2,000
- iii. Tamar Terzian (the "Patient Care Ombudsman"): \$1,200

The Debtors propose to pay the foregoing administrative claims in full, once approved by the Court.

***Priority Tax Claims***

The Debtors propose to pay the priority tax claims of the Internal Revenue Service (\$52,185.95) and Franchise Tax Board (\$14,419) the present value of their claims in full within five years of the petition date in accordance with § 507(a)(8) by making

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

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**Chapter 11**

equal monthly installments in the amounts set forth in Exhibit C of the Disclosure Statement.

***Class 1(A) – Secured Claim of U.S. Bank, National Association – Accepts the Plan***

Class 1(A) consists of the secured claim of U.S. Bank, National Association ("US Bank"). US Bank holds a first-priority lien against the Principal Residence, which secures debt in the amount of \$609,000.

On October 25, 2018, the Debtors filed a *Motion Under LBR 9019 to Approve Compromise Between Individual Debtors Damu Vusha and Akiba Vusha and Creditors Wells Fargo Bank, N.A. and US Bank National Association* [Doc. No. 73] (the "Plan Treatment Stipulation"), which the Court approved by order entered December 6, 2018 [Doc. No. 82]. Pursuant to the Plan Treatment Stipulation, the Debtors propose to pay US Bank's claim in full over 228 months with 3% interest by making monthly payments of \$3,507.48. The Debtors also propose to make the monthly escrow payments for taxes and insurance by making an additional monthly payment of \$580.97.

US Bank's claim is impaired and, pursuant to the Plan Treatment Stipulation, it is deemed to accept the Plan.

***Class 1(B) – Secured Claim of J.P. Morgan Acquisition Corp. – Accepts the Plan***

Class 1(B) consists of the secured claim of J.P. Morgan Acquisition Corp. ("JP Morgan"). JP Morgan holds a first-priority lien against the Wilton Property, which secures debt in the amount of \$310,833.69 and \$4,078.86 in pre-petition arrears.

On March 12, 2019, JP Morgan filed a *Stipulation Re: Adequate Protection and Treatment of Creditors' Claim Under Debtors' Chapter 11 Plan of Reorganization* [Doc. No. 95] (the "JP Morgan Stipulation"), which the Court approved by order entered on the same date [Doc. No. 98]. Pursuant to the JP Morgan Stipulation, the Debtors propose to pay JP Morgan's claim in full with 5.125% interest by making monthly payments of \$1,563.92. The Debtors also propose to make the monthly escrow payments for taxes and insurance by making an additional monthly payment of \$321.56. Finally, the Debtors propose to cure the pre-petition arrears by making six equal monthly installment payments of \$784.33 beginning the first month following confirmation of the Plan.



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JP Morgan's claim is impaired, and it voted to accept the Plan.

***Class 1(C) – Secured Claim of CSMC 2018-RPL8 Trust – Accepts the Plan***

Class 1(C) consists of the secured claim of CSMC 2018-RPL8 Trust ("CSMC"). CSMC holds a first-priority lien against the 69th Street Property, which secures debt in the amount of \$277,258.87 and \$4,723.57 in pre-petition arrears.

On July 3, 2019, the Debtors filed a *Motion to Approve Stipulation for Plan Treatment on First Lien Secured by Real Property Located at 1300 West 69th Street, Los Angeles, CA 90044-2535* [Doc. No. 130] (the "CSMC 2018-RPL8 Trust Stipulation"), which the Court by order entered on July 24, 2019 [Doc. No. 138]. Pursuant to the CSMC 2018-RPL8 Trust Stipulation, the Debtors propose to pay CSMC's claim in full with 3.25% interest by making monthly payments of \$1,060.60. The Debtors also propose to make the monthly escrow payments for taxes and insurance by making an additional monthly payment of approximately \$308.54. Finally, the Debtors propose to make additional monthly payments of \$61.87 for twelve (12) months to cure pre-petition arrears. [Note 2]

CSMC's claim is impaired, and it voted to accept the Plan.

***Class 1(D) – Secured Claim of Santander Consumer USA – Deemed to Reject***

Class 1(D) consists of the secured claim of Santander Consumer USA ("Santander"). Santander holds a secured lien against the Debtors' 2004 Toyota Sienna, securing debt in the amount of \$3,622.13 and \$1,186.19 in pre-petition arrears. As of April 5, 2019, the outstanding balance of this claim is \$2,561.29. The Debtors propose to pay Santander's claim in full pursuant to the terms of the original Vehicle Loan Agreement, by making monthly payments of \$417.73 until the claim is satisfied.

Santander's claim is impaired, and it did not cast a ballot. Therefore, Class 1(D) is deemed to reject the Plan.

***Class 1(E) – Secured Claim of the Internal Revenue Service – Deemed to Reject***

Class 1(E) consists of the secured claim of the Internal Revenue Service (the "IRS"). The IRS holds a blanket security lien against the Debtors' assets, securing

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debt in the amount of \$40,222.59. The Debtors propose to pay the IRS's claim in full by making monthly payments of \$759.60 for sixty months, with the applicable IRS interest rate of 5%. [Note 3]

The IRS's claim is impaired, and it did not cast a ballot. Therefore, Class 1(E) is deemed to reject the Plan.

***Class 2(A) – General Unsecured Claims – Deemed to Reject***

Class 2(A) consists of general unsecured claims ("GUC") totaling \$66,108.32. The Debtors propose to pay 100% of all claims in Class 2(A), with an interest rate of 6%, over a period of five years by making monthly payments of \$1,278.06 beginning on the first day of the month following the Effective Date.

Claims in this class are impaired and entitled to vote on the Plan. No votes were received. Therefore, Class 2(A) is deemed to reject the Plan.

***Class 2(B) – Unsecured Claim of U.S. Department of Education – Deemed to Reject***

Class 2(B) consists of the unsecured claim of the U.S. Department of Education c/o FedLoan Servicing ("U.S. Dept. of Educ.") for Debtors' student loans totaling \$45,883.05 (the "Student Loans"). The Debtors propose to pay their Student Loans in full over a period of 18 years in accordance with the current terms of repayment. The Debtors state that they are on an "income-based" repayment plan and are not making any payments. Debtors propose to begin making payments of \$212.42 per month beginning on the first day of the month following the Effective Date.

Class 2(B) is impaired, and U.S. Dept. of Educ. did not cast a ballot. Therefore, Class 2(B) is deemed to reject the Plan.

As of the preparation of this tentative ruling, no opposition is on file.

**II. Findings of Fact and Conclusions of Law**

As set forth below, the Court finds that the Plan complies with all applicable provisions of § 1129.

**SECTION 1129(a)(1)**

Section 1129(a)(1) requires that the "plan compl[y] with the applicable provisions

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of this title." According to the leading treatise, the "legislative history suggests that the applicable provisions are those governing the plan's internal structure and drafting: 'Paragraph (1) requires that the plan comply with the applicable provisions of chapter 11, such as section 1122 and 1123, governing classification and contents of a plan.'" *Collier on Bankruptcy* ¶ 1129.01[1] (16th rev'd ed.) (citing S. Rep. No. 989, 95th Cong., 2d Sess. 126 (1978)).

1. Section 1122(a)

Section 1122(a) provides that "a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class."

The Plan's classification structure complies with § 1122(a). The Plan contains five classes of secured creditors, a class of general unsecured creditors, and a class comprised of the unsecured claim of the U.S. Department of Education for the Debtors' student loans.

As to the discrimination of unsecured creditors, the Court recognizes that there is split between courts prohibiting the discrimination of unsecured debt in favor of long-term nondischargeable unsecured debt. *See In re Sutton*, No. 10-10539-8-RDD, 2012 WL 433480, at \*3 (Bankr. E.D.N.C. Feb. 9, 2012) (discussing the jurisdictional split regarding separate classification of student loans). Courts allowing for such discrimination reason that: "1) the debtor will not be afforded a fresh start if the student loan is not separated from other general unsecured claims; 2) strong public policy exists for repayment of educational loans; 3) Congress prefers reorganization over liquidation; and 4) unsecured creditors are not harmed by favorable treatment because distribution must be equivalent to liquidation under Chapter 7." *See at* \*4. Here, the Debtors' separate classification is consistent with the objectives set forth in *In re Sutton*. First, separate classification of the U.S. Department of Education's educational loan is permissible because the long-term student loan debt is nondischargeable pursuant to § 523(a)(8) and is clearly dissimilar from the remaining general unsecured claims. Second, separate classification would not result in any unfair discrimination against either class of unsecured creditors in violation of § 1129(b)(1) because the Plan proposes to remunerate both classes of claims in full. Third, any discrepancy in interest rates paid out to either class of unsecured creditors is the result of the longer repayment term to Class 2(B) pursuant to the Debtors'

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respective student loan agreements.

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Therefore, the Plan satisfies § 1122(a).

2. Section 1122(b)

Section 1122(b) provides that "a plan may designate a separate class of claims consisting only of every unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience."

The Plan does not contain any convenience classes. Section 1122(b) does not apply.

3. Section 1123(a)(1)

Section 1123(a)(1) requires that a plan "designate ... classes of claims, other than claims of a kind specified in section 507(a)(2) [administrative expense claims], 507(a)(3) [claims arising during the gap period in an involuntary case], or 507(a)(8) [priority tax claims], and classes of interest."

The Plan appropriately designates classes of claims and interests. The Plan satisfies § 1123(a)(1).

4. Section 1123(a)(2)

Section 1123(a)(2) requires that the Plan "specify any class of claims or interests that is not impaired under the Plan."

The Plan specifies that all classes are impaired. The Plan satisfies § 1123(a)(2).

5. Section 1123(a)(3)

Section 1123(a)(3) requires that the Plan "specify the treatment of any class of claims or interests that is impaired under the Plan."

The Plan specifies the treatment of all impaired classes. The Plan satisfies § 1123(a)(3).

6. Section 1123(a)(4)

Section 1123(a)(4) requires that the Plan "provide the same treatment for each

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claim or interest of a particular class unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest."

The Plan provides the same treatment to claims and interests of the same class. The Plan satisfies § 1123(a)(4).

7. Section 1123(a)(5)

Section 1123(a)(5) requires that the Plan "provide adequate means for the plan's implementation."

The Plan will be funded by income from the Business, the Debtors' monthly Social Security Income, rental income from the 69th Street Property and the Wilton Property, and a \$2,500 monthly contribution from one of the Debtor's mother.

As demonstrated by Debtors' projected income and expenses for the next five years [Doc. No. 154], these funding sources provide an adequate means for the Plan's implementation. The Plan satisfies § 1123(a)(5).

8. Section 1123(a)(6)

Section 1123(a)(6) provides: "[A] plan shall provide for the inclusion in the charter of the debtor, if the debtor is a corporation ..., of a provision prohibiting the issuance of nonvoting equity securities, and providing, as to the several classes of securities possessing voting power, an appropriate distribution of such power among such classes, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for the election of directors representing such preferred class in the event of default in the payment of such dividends."

The Debtors are individuals. Section 1123(a)(6) does not apply.

9. Section 1123(a)(7)

Section 1123(a)(7) requires that the Plan's provisions with respect to the selection of officers and directors be consistent with public policy and the interests of creditors and equity security holders.

The Debtors are individuals. Section 1123(a)(7) does not apply.

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10. Section 1123(a)(8)

Section 1123(a)(8) was added to the Bankruptcy Code to provide that, to be confirmable, an individual debtor's plan must provide for the payment to creditors of all or such portion of earnings from personal services or other future income of the debtor. The Plan provides for the payment of a portion of the Debtors' future income to creditors. The Plan satisfies § 1123(a)(8).

11. Section 1123(b)

Section 1123(b) sets forth provisions that are permitted, but not required in a plan of reorganization. The Plan appropriately implements many of § 1123(b)'s optional provisions. For example, the Plan provides for the assumption of executory contracts and unexpired leases pursuant to § 1123(b)(2); provides for the settlement or adjustment of claims pursuant to § 1123(b)(3)(A) and designates the Debtors as the representatives of the estate to enforce any claims or causes of actions belonging to the estate pursuant to § 1123(b)(3)(B); and modifies the rights of certain holders of claims pursuant to § 1123(b)(5). In sum, the Plan complies with § 1123(b).

**SECTION 1129(a)(2)**

Section 1129(a)(2) requires that the "proponent of the plan compl[y] with the applicable provisions of this title." The Court finds that the Debtors have:

- 1) Complied with the Bankruptcy Code's provisions with respect to the use of cash collateral (*see Order Re: Notice of Motion and Motion in Individual Chapter 11 Case for Order Authorizing Use of Cash Collateral* [Doc. Nos. 23, 43]);
- 2) Obtained Court approval of a Disclosure Statement in accordance with § 1125 (*see Order Approving Debtors' Disclosure Statement in Support of Plan of Reorganization* [Doc. No. 120]);
- 3) Obtained Court approval of the employment of professional persons (*see* Doc. Nos. 32, 35, 38, 45 and 63); and
- 4) Filed monthly operating reports.

Accordingly, the Debtors have satisfied the requirements of § 1129(a)(2).

**SECTION 1129(a)(3)**

Section 1129(a)(3) requires that the "plan has been proposed in good faith and not

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by any means forbidden by law." As one court has explained:

The term 'good faith' in the context of 11 U.S.C. § 1129(a)(3) is not statutorily defined but has been interpreted by case law as referring to a plan that 'achieves a result consistent with the objectives and purposes of the Code.' 'The requisite good faith determination is based on the totality of the circumstances.'

*In re Melcher*, 329 B.R. 865, 876 (Bankr. N.D. Cal. 2005) (internal citations omitted).

The Plan seeks objectives that are consistent with those of the Bankruptcy Code and the Debtors have complied with the requirements of the Code throughout this case. Under Fed. R. Bankr. P. 3015(f), the Court is not required to receive evidence as to good faith because no party has objected to confirmation. The Plan satisfies § 1129(a)(3).

**SECTION 1129(a)(4)**

Section 1129(a)(4) requires that "[a]ny payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable."

The Plan provides for Court approval of all professional fees. *See* Plan at II.a.1.i. The Plan satisfies § 1129(a)(4).

**SECTION 1129(a)(5)**

Section 1129(a)(5) requires that the Plan disclose "the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint Plan with the debtor, or a successor to the debtor under the Plan." Section 1129(a)(5)(A)(ii) requires that the appointment to or continuation in office of a director or officer be consistent with the interests of creditors, equity security holders, and public policy. Section 1129(a)(5)(B) requires the Plan proponent to disclose the identity of any insider to be employed by the reorganized debtor.

The Debtors are individuals. Section 1129(a)(5) does not apply.

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**SECTION 1129(a)(6)**

Section 1129(a)(6), which requires that a governmental regulatory commission with jurisdiction over rates charged by a debtor approve any rate changes provided for in the plan, does not apply.

**SECTION 1129(a)(7)**

Section 1129(a)(7), known as the "best interests of creditors test," provides in relevant part: "With respect to each impaired class of claims or interests, each holder of a claim or interest of such class has accepted the plan; or will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date."

Classes 1(A), 1(B), and 1(C) have accepted the Plan. Classes 1(D), 1(E), 2(A), and 2(B) did not cast ballots and are deemed to have rejected the Plan. Based on the terms proposed in the Plan, the Debtors will pay rejecting claims in full. Accordingly, all classes have either accepted the Plan or will receive treatment that is no less favorable than they would receive under Chapter 7. The Plan satisfies § 1129(a)(7).

**SECTION 1129(a)(8)**

Section 1129(a)(8) requires each class to accept the Plan, unless the class is not impaired. Impaired Classes 1(A), 1(B), and 1(C) have accepted the Plan. Classes 1(D), 1(E), 2(A), and 2(B) did not cast ballots and are deemed to have rejected the Plan. *See In re M. Long Arabians*, 103 B.R. 211, 215-16 (B.A.P. 9th Cir. 1989) (To accept a Plan, members of a class must affirmatively vote in favor of the Plan). Accordingly, the Plan does not satisfy § 1129(a)(8) and must, therefore, satisfy § 1129(b).

**SECTION 1129(a)(9)**

Section 1129(a)(9) requires that holders of certain administrative and priority claims receive cash equal to the allowed claim amount of their claims on the effective date of the plan, unless the claimant agrees to different treatment.



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The Plan provides for the payment of all outstanding allowed administrative claims in full as soon as the fees are approved by the Court and none of the professionals have requested a different payment arrangement. The Plan also provides for payment of priority tax claims in a manner consistent with § 1129(a)(9)(C)(ii). The Plan satisfies § 1129(a)(9).

**SECTION 1129(a)(10)**

Section 1129(a)(10) requires that "at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider."

Classes 1(A), 1(B), and 1(C) consist of non-insider claims, are impaired, and have voted to accept the Plan. Section 1129(a)(10) is satisfied.

**SECTION 1129(a)(11)**

Section 1129(a)(11), known as the "feasibility requirement," requires the Court to find that "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan."

The Debtors submit that they have sufficient cash on hand to pay the amounts that are due on the Effective Date. Based upon a review of the budget projections included as Exhibit C to the Disclosure Statement (which was updated on Exhibit 6 to the Amended Confirmation Brief), the Court finds that confirmation is not likely to be followed by liquidation or the need for further financial reorganization.

The Plan is feasible and satisfies § 1129(a)(11).

**SECTION 1129(a)(12)**

Section 1129(a)(12) requires that the Debtor pay all United States Trustee fees prior to confirmation or provide for payment of those fees on the effective date.

To the Court's knowledge, UST fees are current. To the extent any fees are outstanding, the Plan provides that all such fees will be paid by the Effective Date.

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Section 1129(a)(12) is satisfied.

**SECTION 1129(a)(13)**

Section 1129(a)(13), which contains requirements pertaining to the payment of retirement benefits, does not apply.

**SECTION 1129(a)(14)**

Section 1129(a)(14), which contains requirements pertaining to the payment of domestic support obligations, does not apply.

**SECTION 1129(a)(15)**

Section 1129(a)(15) imposes certain requirements upon individual debtors if the holder of an unsecured claim objects to confirmation of the Plan. Section 1129(a)(15) does not apply because no objections to the Plan are on file.

**SECTION 1129(a)(16)**

Section 1129(a)(16) provides: "All transfers of property under the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust."

The Plan does not provide for the transfer of any property. The Plan satisfies § 1129(a)(16).

**SECTION 1129(b)**

Section 1129(b), which contains requirements for cram down, applies. Pursuant to § 1129(b)(1), a plan may be confirmed where not all impaired classes vote to accept the plan, provided that "the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." With respect to a class of secured claims, the condition that a plan be fair and equitable includes the following requirements:

- (i)(I) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and
- (II) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a

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- value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;
- (ii) for the sale, subject to section 363(k) of this title, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (i) or (iii) of this subparagraph; or
  - (iii) for the realization by such holders of the indubitable equivalent of such claims.

11 U.S.C. § 1129(b)(2)(A).

Under the Plan, Classes 1(D) and 1(E) are impaired, did not cast ballots, and are deemed to reject the Plan. Therefore, the Plan must be crammed down on these classes. In this case, Debtors propose to pay Class 1(D) 100% of the outstanding claim balance at an interest rate of 25.49%, which was set pursuant to the vehicle purchase agreement. *See* Exhibit 1 of the Amended Confirmation Brief. Comparably, the Debtors propose to pay Class 1(E) 100% of its claim with the applicable interest rate of 5% set by the Internal Revenue Service. *See* I.R.S. Rev. Rul. 2019-15. Given that the Plan provides that Classes 1(D) and 1(E) will receive the total amount of their claims, with an appropriate interest rate, these claimants will receive the present value of their claims as of the Effective Date. The Court accordingly finds that the proposed treatment of Classes 1(D) and 1(E) is consistent with § 1129(b)(2)(A)(i)(II).

In sum, the "fair and equitable" requirement set forth in § 1129(b)(2) is satisfied with respect to Classes 1(D) and 1(E). The Plan may be crammed down on these classes.

With respect to a class of unsecured claims, the condition that a plan be fair and equitable includes the following requirements:

- (i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
- (ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this

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section.

11 U.S.C. § 1129(b)(2)(B).

Under the Plan, Classes 2(A) and 2(B) are impaired, did not cast ballots, and are deemed to reject the Plan. Therefore, the Plan must be crammed down on these classes.

As to Class 2(A), Debtors propose to pay general unsecured creditors (the "GUC") 100% of their claims, with an interest rate of 6%, which is comprised of the federal prime rate of 5% and an addition of one hundred (100) basis points to account for the risk absorbed by creditors [**Note 4**]. The Court determines that payment to the GUC at the proposed interest rate is adequate. *See Till v. SCS Credit Corp.*, 541 U.S. 465, 478 – 79 (2004) (determining that debtors invoking the cram down option must pay rejecting creditors' claims at the national prime interest rate, adjusted to account for a number of critical factors); *First S. Nat'l Bank v. Sunnyslope Hous. L.P. (In re Sunnyslope Hous. L.P.)*, 859 F.3d 637, 646 (9th Cir. 2017) (applying the "Till test" to ensure that a creditor received the present value of its claim through payments proposed in a Chapter 11 plan). Therefore, the Plan satisfies § 1129(b)(2)(B)(i) with respect to Class 2(A).

Separately, the Debtors propose to pay Class 2(B), consisting of unsecured student loans, in full at the interest rate fixed by the Debtors' individual student loan agreements. As the claimant in Class 2(B) is entitled to receive the total amount of its claim, with an appropriate rate of interest, the Court finds that the treatment of Class 2(B) under the Plan is consistent with § 1129(b)(2)(B)(i). Notwithstanding the Debtors' proposed payment schedule of claims in Class 2(B), this tentative ruling will not alter or affect any terms or provisions on the Debtors' respective student loan agreements.

Therefore, as the "fair and equitable" requirement provided in § 1129(b)(2) is satisfied with respect to Classes 2(A) and 2(B), the Plan may be crammed down on these classes.

**SECTION 1129(c)**

Section 1129(c), which states that the court may confirm only one plan in a particular case, is satisfied.

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**SECTION 1129(d)**

Section 1129(d) provides: "Notwithstanding any other provisions of this section, on request of a party in interest that is a governmental unit, the court may not confirm a Plan if the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933."

No governmental unit has requested that the court not confirm the Plan on the grounds that the Plan's purpose is the avoidance of taxes or application of section 5 of the Securities Act of 1944. The Plan satisfies § 1129(d).

**Post-Confirmation Status Conference**

A Post-Confirmation Status Conference shall be held on **March 18, 2020, at 10:00 a.m.** A Post-Confirmation Status Report shall be filed by no later than fourteen days prior to the hearing.

**III. Conclusion**

For the reasons set forth above, the Plan is CONFIRMED. The Debtors are directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Court approved stipulations between the Debtors and US Bank [Doc. Nos. 73, 82], JP Morgan [Doc. Nos. 95, 98], and CSMC [Doc. Nos. 130, 138].

**Note 2:** The Court notes minor differences in the proposed treatment of Class 1(C) between the Supplemental Brief [Doc. No. 148] and the Amended Confirmation Brief

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**CONT... Damu Vusha and Akiba Vusha**

**Chapter 11**

[Doc. No. 154]. On the Supplemental Brief, the Debtor proposes to pay a monthly escrow payment of \$341.13, while apparently revising this figure to \$308.54 in the Amended Confirmation Brief. The Debtors have also corrected proposed arrearage payments, which will now be made in monthly installments of \$61.87 over 12 months, and not over a period of 60 months. *Compare* Doc. No. 148 at 12 *with* 154 at 14.

**Note 3:** *See* I.R.S. Rev. Rul. 2019-15.

**Note 4:** At the time the Court prepared its tentative ruling denying the Debtors' previous plan, which became the final ruling by court order [Doc. No. 152], the prime interest rate was 5%. *See* Board of Governors of the Federal Reserve System, Federal Reserve Press Release (September 18, 2019), <https://www.federalreserve.gov/monetarypolicy/files/monetary20190918a1.pdf>.

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

Damu Vusha

Represented By  
Michael Jay Berger

**Joint Debtor(s):**

Akiba Vusha

Represented By  
Michael Jay Berger

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Los Angeles  
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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#108.00 HearingRE: [4146] Motion St. Vincent IPA's Notice of Motion, Motion to Enforce Critical Vendor Agreement, Memorandum of Points and Authorities, Decl. of Dr. Jeffrey Hendel, with Proof of Service

Docket 4146

**Tentative Ruling:**

3/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

For the reasons set forth below, the Motion is **GRANTED**. The Debtors shall pay the Group the \$150,000 payment due under the Settlement Agreement for the month of January 2020 by no later than **March 24, 2020**.

**Pleadings Filed and Reviewed:**

- 1) St. Vincent IPA's Notice of Motion and Motion to Enforce Critical Vendor Agreement [Doc. No. 4146] (the "Motion")
- 2) Debtors Objection to St. Vincent IPA's Motion to Enforce Critical Vendor Agreement [Doc. No. 4214] (the "Opposition")
- 3) St. Vincent IPA's Reply to Debtors' Objection to Motion to Enforce Critical Vendor Agreement [Doc. No. 4255] (the "Reply")

**I. Facts and Summary of Pleadings**

St. Vincent IPA Medical Corporation (the "Group") moves for an order enforcing the Debtors' compliance with a settlement agreement entered into between the Group and the Debtors (the "Settlement Agreement") and subsequently approved by the Court. Debtors oppose the Motion.

The Group is comprised of approximately 200 doctors who formerly worked at Debtor St. Vincent Medical Center ("St. Vincent"). Before St. Vincent closed, the Group's patients accounted for between 7–10% of patients treated at St. Vincent, and generated significant revenue for the hospital. The Group was designated as a Critical Vendor within the meaning of the *Final Order Granting Debtors' Emergency Motion*

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*for Entry of an Order Authorizing Debtors to Honor Prepetition Obligations to Critical Vendors* [Doc. No. 436] (the “Critical Vendor Order”).

The Settlement Agreement pertained to a *Healthcare Services Risk Sharing Agreement* dated January 1, 2002 (the “Risk Pool Agreement”) between the Debtors and the Group. The Risk Pool Agreement was intended to coordinate optimal patient care between St. Vincent and the Group. Under the Risk Pool Agreement, the Group managed the use of medical services supplied to patients of the Group by St. Vincent. In exchange for providing these services, the Group was entitled to receive compensation from a risk pool, but only if the risk pool manifested a surplus. The Group received payments from the risk pool semi-annually, but only for 50% of the amounts it was owed; complete payments were remitted approximately five months after the end of each reconciliation period.

The Settlement Agreement accelerated the distribution of risk pool payments to the Group by providing for monthly advances of \$150,000. Under the Settlement Agreement, these interim monthly payments are subject to a true up (the “True Up”) based upon the final reconciliation of amounts in the risk pool. If the aggregate amount of payments was less than the eventual risk-share split, the Group would be owed additional amounts; conversely, if the aggregate payments exceeded the risk-share split, the Group would be required to refund the excess amounts. The Court approved the Settlement Agreement on May 14, 2019. *See* Doc. Nos. 2371 (order approving the Settlement Agreement) and 2350 (Final Ruling granting the motion for approval of the Settlement Agreement).

On February 20, 2020, the Court approved a stipulated order providing for the rejection of the Risk Pool Agreement. *See* Doc. No. 4129. Rejection of the Risk Pool Agreement was effective as of January 31, 2020. *Id.*

On January 9, 2020, the Court granted the Debtors’ emergency motion for authorization to close St. Vincent Medical Center (“St. Vincent”). *See* Doc. No. 3934 (the “Closure Order”). Pursuant to the Closure Order, emergency services were discontinued as of January 9, 2020, the dialysis center was closed as of January 13, 2020, all inpatients were discharged or transferred as of January 18, 2020, all outpatient visits ceased as of January 22, 2020, and all transplant candidates were transferred as of January 23, 2020. *See* Doc. No. 3982 (status report describing closure of St. Vincent).

The Settlement Agreement requires the Debtors to make monthly payments of \$150,000 to the Group “until a sale of St. Vincent Medical Center has closed ....” Settlement Agreement at ¶ d [Doc. No. 4146, Ex. A]. The Settlement Agreement



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contains no language addressing the Debtors' payment obligations in the event of the closure of St. Vincent.

Debtors have not made a payment to the Group under the Settlement Agreement for the month of January 2020. The Group asserts that it performed under the Settlement Agreement by providing services to patients during January 2020, and that it is therefore entitled to receive a \$150,000 payment.

Debtors contest their liability for the January 2020 payment. Debtors assert that the only reasonable interpretation of the Settlement Agreement is that the Debtors' monthly payment obligations end when St. Vincent is or is not sold. *See* Opposition at 9 ("The only sensible way to interpret the agreement, however, is to tie an end date to the closing, or the failure to close, of a going concern sale of [St. Vincent]."). Debtors contend that under any other interpretation, they would be obligated to make monthly payments to St. Vincent in perpetuity, even after St. Vincent had closed and it became impossible for the Group to provide services under the Settlement Agreement. Debtors further contend that under the Settlement Agreement's True Up provision, the Group owes the Debtors a refund of approximately \$414,000. According to the Debtors, it would make no sense to pay the Group the \$150,000 January 2020 monthly payment when the Group would ultimately be required to refund that payment. Finally, Debtors maintain that even if their True Up estimates are incorrect and the Group is entitled to an additional payment under the True Up, withholding the January 2020 payment would not prejudice the Group, because it could file an administrative claim for the unpaid amounts.

The Group disputes the Debtors' contention that it owes a refund to the Debtors under the True Up. The Group asserts that it will ultimately be entitled to a further distribution from the risk pool because the risk pool is in surplus. The Group states that it is only seeking payment under the Settlement Agreement for the month of January 2020, and will not seek payments for services performed subsequent to January 31, 2020.

## **II. Findings and Conclusions**

The Settlement Agreement provides in relevant part:

For the months subsequent to October, 2018, until a sale of St. Vincent Medical Center has closed, Verity [the Debtors] shall make \$150,000 of interim monthly payments, on or about the third week of the month, to St. Vincent IPA [the Group] for services rendered during those post-petition

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Settlement Agreement at ¶ d.

On May 14, 2019, the Court entered an order approving the Settlement Agreement in its entirety. *See* Doc. No. 2371. The Court found that the payments required under the Settlement Agreement were an appropriate use of the estates' property, because the Settlement Agreement facilitated the continued efficient operation of St. Vincent pending the closing of the then-contemplated sale to Strategic Global Management, Inc. ("SGM"). *See* Doc. No. 2350 at p. 4 (Final Ruling Granting Motion to Approve Settlement Agreement).

The Settlement Agreement contains no language specifying the Debtors' payment obligations to the Group in the event of the closure of St. Vincent. At the time the Settlement Agreement was negotiated, the Debtors could easily have anticipated the possibility that the sale to SGM (the "SGM Sale") might not be successful and that closing St. Vincent would be necessary. It would not have been difficult for the Debtors to have included a provision specifying their payment obligations to the Group in the event of a closure.

The Debtors ask the Court to read into the Settlement Agreement language providing that their payment obligation ceases upon the closure of St. Vincent. Because the Debtors could have easily included such a provision, the Court declines to do so. Under the plain language of the Settlement Agreement, the Group is entitled to payment for services rendered during the month of January 2020. The Declaration of Dr. Jeffrey Hendel, submitted in support of the Motion, states that the "Group provided services under the terms of the Critical Vendor Agreement through January 31, 2020 despite the Hospital [St. Vincent] eliminating services on-site, outsourcing services traditionally provided to Member patients at the Hospital to third-party providers at a substantially increased expense and to the detriment of the Group." Hendel Decl. at ¶ 14. The Debtors have not controverted Dr. Hendel's testimony or introduced any evidence showing that the Group did not fulfill its obligations under the Settlement Agreement during the month of January 2020.

The Debtors' remaining arguments for why the Group is not entitled to the January 2020 payment are easily disposed of. First, Debtors contend that advancing the payment would be a useless gesture because the Group would ultimately be required to return the payment upon completion of the True Up. That argument fails because nothing in the Settlement Agreement authorizes the Debtors to withhold monthly payments based upon projections regarding the results of the True Up. In

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addition, the Debtors' assertion that the Group will likely be required to refund payments after completion of the True Up is nothing more than speculation. The Debtors offer the testimony of their Chief Executive Officer, Richard G. Adcock, in support of their assertions regarding the True Up. Mr. Adcock testifies that based upon his review of the most current risk pool report, the "Group *appears* to owe [St. Vincent] a refund at this time," and that "[a]ny further payment(s) under the [Settlement Agreement] would *likely* merely increase the eventual refund due from Group to the Debtors estate." Adcock Decl. at ¶ 10 (emphasis added). Thus, even Mr. Adcock acknowledges that the ultimate results of the True Up are uncertain. That is unsurprising, given that under the Risk Pool Agreement upon which the Settlement Agreement is based, the True Up calculations take months to perform.

Second, the Debtors argue that the Group would not be prejudiced if the January 2020 payment was withheld because it could file an administrative claim if the True Up shows it is entitled to additional payments. Again, this argument ignores the plain language of the Settlement Agreement. The Group agreed to provide services under the Settlement Agreement in exchange for receiving monthly payments of \$150,000—not in exchange for the possibility of filing an administrative claim.

### III. Conclusion

Based upon the foregoing, the Motion is **GRANTED**. The Debtors shall pay the Group the \$150,000 payment due under the Settlement Agreement for the month of January 2020 by no later than **March 24, 2020**.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

#### Party Information

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel

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John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

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Chapter 11

#109.00 HearingRE: [4265] Motion Debtors' Motion for Approval of Settlement Agreement with SEIU-UHW Related to the Closure of St. Vincent Medical Center, Including Allowance of Certain Claims and Consensual Modification of the Applicable Collective Bargaining Agreement; Declaration of Richard G. Adcock In Support Thereof

Docket 4265

**Tentative Ruling:**

3/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

For the reasons set forth below, the Motion is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Motion for Approval of Settlement Agreement with SEIU-UHW Related to the Closure of St. Vincent Medical Center, Including Allowance of Certain Claims and Consensual Modification of the Applicable Collective Bargaining Agreement [Doc. No. 4265] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4265, 4266 and 4268 [Doc. No. 4280]
- 2) Application for Order Setting Hearing on Shortened Notice [Doc. No. 4266]
- 3) Order Setting Hearing on Shortened Notice on Debtors' Motion for Approval of Settlement Agreement with SEIU-UHW Related to the Closure of St. Vincent Medical Center [Doc. No. 4286]

**I. Facts and Summary of Pleadings**

Debtors move for entry of an order approving a settlement agreement (the "Settlement Agreement") between the Debtors and the Service Employees International Union–United Healthcare Workers-West (the "SEIU-UHW") that resolves all issues related to the recent emergency closure of St. Vincent Medical Center ("St. Vincent"), including the allowance and treatment of certain claims and the modification of the Collective Bargaining Agreement effective November 1,

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2018–October 31, 2021 (the “SEIU-UHW CBA”) so as to remove all reference of the CBA to St. Vincent. No opposition to the Motion is on file.

On August 31, 2018 (the “Petition Date”), Verity Health System of California (“VHS”) and certain of its subsidiaries (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors’ cases are being jointly administered. As of the Petition Date, the Debtors operated six hospitals (the “Hospitals”).

On January 9, 2020, the Court granted the Debtors’ emergency motion for authorization to close St. Vincent. *See* Doc. No. 3934 (the “Closure Order”). Pursuant to the Closure Order, emergency services were discontinued as of January 9, 2020, the dialysis center was closed as of January 13, 2020, all inpatients were discharged or transferred as of January 18, 2020, all outpatient visits ceased as of January 22, 2020, and all transplant candidates were transferred as of January 23, 2020. *See* Doc. No. 3982 (status report describing closure of St. Vincent).

The SEIU-UHW CBA currently covers SEIU-UHW represented employees at St. Francis Medical Center and 370 former employees of St. Vincent (former St. Vincent employees, the “SEIU-UHW Represented Employees”). The SEIU-UHW Represented Employees included, without limitation, environmental services aides, certified nurse assistants, unit coordinators, radiological technicians, and pharmacy technicians.

Under the Settlement Agreement, the Debtors and SEIU-UHW have agreed to resolve all claims and unfair labor practice charges related to the closure of St. Vincent. The material terms of the Settlement Agreement are as follows:

- 1) Debtors will make a payment of \$500,000.00 (the “Settlement Payment”) for the benefit of SEIU-UHW Represented Employees who worked at St. Vincent and who are not actively employed by St. Francis as of the date of entry of a Bankruptcy Court order approving the Settlement Agreement.
- 2) In the event the Debtors reach a settlement with the California Nurses Association that provides for a payment exceeding \$500,000.00, the Settlement Payment will be adjusted upwards to match that amount.
- 3) Eligible employees who provide a timely release and waiver shall receive an allowed general unsecured claim in the amount otherwise due and owing under the SEIU-UHW CBA for severance.

## **II. Findings and Conclusions**

Section 1113 authorizes the Debtors to assume a modified collective bargaining

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agreement and provides:

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(a) The debtor in possession, or the trustee if one has been appointed under the provisions of this chapter, ... may assume or reject a collective bargaining agreement only in accordance with the provisions of this section.

(b)

(1) Subsequent to filing a petition and prior to filing an application seeking rejection of a collective bargaining agreement, the debtor in possession or trustee (hereinafter in this section "trustee" shall include a debtor in possession), shall—

(A) make a proposal to the authorized representative of the employees covered by such agreement, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the employee benefits and protections that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

(B) provide, subject to subsection (d)(3), the representative of the employees with such relevant information as is necessary to evaluate the proposal.

(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1) and ending on the date of the hearing provided for in subsection (d)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.

(c) The court shall approve an application for rejection of a collective bargaining agreement only if the court finds that—

(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (b)(1);

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(2) the authorized representative of the employees has refused to accept such proposal without good cause; and

(3) the balance of the equities clearly favors rejection of such agreement.

"Bankruptcy cases generally approach this complicated statute by breaking the statute into a nine part test" first set forth in *In re Am. Provision Co.*, 44 B.R. 907, 909 (Bankr. D. Minn. 1984). *See In re Karykeion, Inc.*, 435 B.R. 663, 677 (Bankr. C.D. Cal. 2010); *see also In re Family Snacks, Inc.*, 257 B.R. 884, 892 (B.A.P. 8th Cir. 2001) ("Virtually every court that is faced with the issue of whether a Chapter 11 debtor may reject its collective bargaining agreement utilizes a nine-part test that was first set down by the bankruptcy court in *In re American Provision Co.*"). The *American Provision* factors are as follows:

- 1) The debtor in possession must make a proposal to the Union to modify the collective bargaining agreement.
- 2) The proposal must be based on the most complete and reliable information available at the time of the proposal.
- 3) The proposed modifications must be necessary to permit the reorganization of the debtor.
- 4) The proposed modifications must assure that all creditors, the debtor and all of the affected parties are treated fairly and equitably.
- 5) The debtor must provide to the Union such relevant information as is necessary to evaluate the proposal.
- 6) Between the time of the making of the proposal and the time of the hearing on approval of the rejection of the existing collective bargaining agreement, the debtor must meet at reasonable times with the Union.
- 7) At the meetings the debtor must confer in good faith in attempting to reach mutually satisfactory modifications of the collective bargaining agreement.
- 8) The Union must have refused to accept the proposal without good cause.
- 9) The balance of the equities must clearly favor rejection of the collective bargaining agreement.

*American Provision*, 44 B.R. at 909.

Courts apply the *American Provision* factors even where a debtor is liquidating its assets and does not intend to continue in business after emerging from bankruptcy.



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Courts reason that "reorganization," as used in § 1113(b)(1)(A), is "generally understood to include all types of debt adjustment, including a sale of assets, piecemeal or on a going concern basis, under § 363 followed by a plan of reorganization which distributes the proceeds of the sale to creditors in accordance with the Bankruptcy Code's priority scheme." *Family Snacks*, 257 B.R. at 895. Some courts have held that where, as here, the Debtors are liquidating their assets, the phrase "necessary to permit the reorganization of the debtor" means "necessary to achieve a sale under § 363 of the Bankruptcy Code." *Alpha Nat. Res., Inc.*, 552 B.R. 314, 333 (Bankr. E.D. Va. 2016); *see also Walter Energy*, 542 B.R. at 890 (requiring that the debtor's proposal "be necessary to permit ... those modifications necessary to consummate a going-concern sale"); *In re Karykeion, Inc.*, 435 B.R. 663, 679 (Bankr. C.D. Cal. 2010) (finding that the debtor had proven that rejection was necessary when the closing of a § 363 sale was contingent on rejection of a collective bargaining agreement). Others courts have concluded that in a liquidating case, the phrase "necessary to permit reorganization of the debtor" means "necessary to accommodate confirmation of a Chapter 11 plan." *Family Snacks*, 257 B.R. at 895.

In the context of this case, the term "necessary to permit the reorganization of the debtor" is best interpreted to mean "necessary to permit the Debtors to confirm a liquidating plan." This interpretation aligns most closely with the manner in which the Debtors are prosecuting this case. From the outset, the Debtors have stated their intent to sell the six Hospitals that they operated as going concerns as of the Petition Date, and use the proceeds from the sales to fund a plan of liquidation. The Debtors have already sold two of their Hospitals, and are in the process of selling their remaining Hospitals.

As set forth below, the Debtors have established that the Settlement Agreement satisfies the *American Provision* factors and warrants approval under § 1113.

**Factors 1, 5, 6, and 7**

Factors one, five, six, and seven are procedural in nature and have been satisfied based upon recitations in the Settlement Agreement. Specifically, the Settlement Agreement acknowledges that the Debtors made a proposal (factor 1), that SEIU-UHW does not have any outstanding informational requests (factor 5), that the Debtors met with SEIU-UHW to negotiate the Settlement Agreement (factor 6), and that the Debtors negotiated in good faith (factor 7).

**Factor 2—The Proposal Was Based on the Most Complete and Reliable**

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**Information**

To satisfy this factor, “the debtor is simply required to gather the most complete information available at the time and to base its proposal on information it considers reliable.” *In re Karykeion, Inc.*, 435 B.R. 663, 678 (Bankr. C.D. Cal. 2010).

The Settlement Agreement was based upon the most complete information available at the time the agreement was presented—namely, that the Court has approved the closure of St. Vincent; that the Debtors no longer employ SEIU-UHW represented employees at St. Vincent; that the Debtors risk incurring liability under the SEIU-UHW CBA; and that the Debtors are financially strained. The Debtors have satisfied this factor.

**Factor 3—The Proposal Is Necessary to Permit Plan Confirmation**

As noted, within the context of this case, the term “necessary to permit the reorganization of the debtor” is best interpreted to mean “necessary to permit the Debtors to confirm a liquidating plan.” This interpretation aligns most closely with the manner in which the Debtors are prosecuting this case.

The Court finds that the modifications to the SEIU-UHW CBA contained within the Settlement Agreement are necessary for the Debtors to move forward with marketing their assets and confirming a plan. Relief is necessary to limit the Debtors’ potential liability under the SEIU-UHW CBA. Absent modification, the SEIU-UHW could expose the Debtors to substantial administrative claims associated with healthcare enterprises that the Debtors intend to dispose of rather than continue to operate.

**Factor 4—The Proposed Modifications Treat Creditors, the Debtor, and All Affected Parties Fairly and Equitably**

The Court finds that the Settlement Agreement treats all parties fairly and equitably. The Settlement Agreement does not disproportionately burden the SEIU-UHW Represented Employees. The failure of the SGM Sale, which necessitated the closure of St. Vincent, has burdened all constituencies in these cases. Certain of the SEIU-UHW Represented Employees have been re-hired at St. Francis. The Settlement Agreements limits eligibility for the Settlement Payment to those employees who were not re-hired. This limitation on the Settlement Payment is fair to all parties, because it allows for a greater distribution to those employees who have experienced the greatest economic hardship.

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**Factor 9—The Balance of the Equities Favors the Proposed Modification**

The balance of the equities favors the modifications effectuated by the Settlement Agreement. As discussed, the Settlement Agreement allows the Debtors to continue to move toward disposing of their assets, while at the same time providing compensation to SEIU-UHW Represented Employees who lost their jobs as a result of the closure of St. Vincent.

**Factors 8 Does Not Apply**

Because the SEIU-UHW accepted the Settlement Agreement, factor 8 does not apply.

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** in its entirety. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

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Nicholas A Koffroth

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2:17-24396 CRESTALLIANCE, LLC

Chapter 7

#200.00 HearingRE: [141] Motion Of Creditors Yun Yan and Xin Quan For Order Deeming Proofs of Claims As Allowed For Distribution Under 11 USC §726(a)(2)(C) On Par With Timely Filed Claims: Memorandum of Points and Authorities and Declarations in Support

Docket 141

**Tentative Ruling:**

3/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances.**

For the reasons set forth below, the Movants will receive a distribution as though their claims had been timely filed pursuant to 11 U.S.C. § 726(a)(2)(C).

**Pleadings Filed and Reviewed:**

1. Motion of Creditors Yun Yan and Xin Quan for Order Deeming Proofs of Claims as Allowed for Distribution under 11 U.S.C. § 726(a)(2)(C) on Par with Timely Filed Claims [Doc. No. 141] (the "Motion")
2. Notice of Motion [Doc. No. 142]
3. Trustee's Reservation of Rights to Object to Claim No. 10 and Claim No. 11 [Doc. No. 146]
4. As of the date of this tentative ruling, no substantive opposition is on file

**I. Facts and Summary of Pleadings**

Crestalliance, LLC (the "Debtor") filed a voluntary petition under chapter 11 on November 22, 2017. The United States Trustee's office (the "UST") filed a motion to dismiss or convert the Debtor's case (the "UST's Motion") on December 14, 2017. The UST's Motion was granted, and the Debtor's case was converted to under chapter 7 on January 17, 2018 [Doc. No. 22]. David M. Goodrich was appointed as the chapter 7 trustee (the "Trustee"). On April 3, 2018, the Trustee filed a notice of assets and set the deadline to file proofs of claim as July 9, 2018.

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**CRESTALLIANCE, LLC**

**Chapter 7**

On February 13, 2020, Yun Yan and Xin Quan (jointly, the "Movants") filed the Motion, seeking an order to deem Claim No. 10 and Claim No. 11 (jointly, the "Claims") timely filed based on the Movants' asserted lack of knowledge of Debtor's bankruptcy case until November 6, 2019. The Movants each attest that soon after learning of the Debtor's case, they engaged bankruptcy counsel and filed the Claims on January 25, 2020. The Movants claim that they only learned of the instant bankruptcy from state court counsel, who they hired to initiate a lawsuit against the Debtor and Debtor's principals, Daniel and Rebecca Chiu (the "Principals"). The Movants are not listed as creditors on the Debtor's schedules, or otherwise identified in commencement documents.

The Motion sets forth a factual summary of the Movants' claims against the Debtor. Motion at 3-4. In 2010, the Movants assert that they each invested \$530,000 into a real estate development venture promoted by the Principals. The Motion further states that the Principals misappropriated the investment funds for personal gain by transferring such monies to shell companies. On October 18, 2017, the Movants initiated a lawsuit against the Debtor and the Principals in the Superior Court of California, County of Imperial, bearing the case number ECU10085.

On March 4, 2020, the Trustee filed a *Reservation of Rights to Object to Claim No. 10 and Claim No. 11*, preserving the right to object to the Claims on any adequate grounds, insofar the Motion is granted.

As of the preparation of this tentative ruling, no substantive opposition is on file.

## **II. Findings and Conclusions**

Pursuant to §726(a)(2)(C), tardily filed unsecured claims are entitled to the same distribution priority as timely filed unsecured claims, provided "the creditor that holds such claim did not have notice or actual knowledge of the case in time for timely filing of a proof of such claim" and provided "proof of such claim is filed in time to permit payment of such claim."

Movants each attest that they had no notice or actual knowledge of the bankruptcy petition to have timely filed a proof of claim. *See* Declaration of Yun Yan, ¶ 12; Declaration of Xin Quan, ¶ 12. Movants' uncontroverted statements are further

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**Chapter 7**

bolstered by the Court's review of Debtor's commencement documents, which do not identify the Movants as creditors or otherwise. In sum, the Court finds that Movants did not have notice or knowledge of the instant petition on or before the bar date of July 9, 2018. Furthermore, given that the Trustee has not yet filed a final report, there is still time to allow payment of the Claims. Relatedly, Movants filed proofs of claim with the Court on January 25, 2020. Finally, the Court deems the absence of any substantive opposition as consent to granting the Motion pursuant to Local Bankruptcy Rule 9013-1(h).

**III. Conclusion**

For the reasons set forth above, the Motion is GRANTED, and the Claims will be deemed timely filed for the purposes of distribution of estate assets. [Note 1]

The Movants shall lodge a conforming proposed order within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing. **To reduce the spread of coronavirus, the Court will be unavailable for in-court appearances. Through April 30, 2020, self-represented (pro se) parties may appear telephonically through Court Call for free.**

**Note 1:** Nothing in this tentative ruling shall be read as a determination on the validity of the Claims.

**Party Information**

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**United States Bankruptcy Court  
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**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen



**United States Bankruptcy Court  
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**2:18-24265 Neilla M Cenci**

**Chapter 7**

**#201.00** Hearing re [27] *Creditor Ball C M, Incs Notice Of Objection To Claim Of Homestead Exemption And Objection To Homestead Exemption Claim*

fr. 5-8-19; 9-18-19

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-6-20 AT 11:00 A.M.**

**Tentative Ruling:**

5/6/2019

For the reasons set forth below, CONTINUE HEARING to September 18, 2019 at 11:00 a.m.

Creditor Ball C M, Inc. ("Movant") seeks an order disallowing the Debtor's \$175,000 homestead exemption pursuant to § 522(o) [Doc. No. 27] (the "Objection to Homestead Exemption"). Section 522(o) "provides that the value of property claimed as a homestead must be reduced to the extent that the value is attributable to any fraudulent transfers of nonexempt property made by the debtor within 10 years prepetition." *In re McNabb*, 326 B.R. 785, 787-88 (Bankr. D. Ariz. 2005) (citing 11 U.S.C. § 522(o)). "In light of Congress' adoption in section 522(o) of the identical 'intent to hinder, delay or defraud' language found in section 548(a)(1)(A) and section 727(a)(2), courts may look to case law under these sections for guidance in construing the requisite intent under section 522(o)." 4 Collier on Bankruptcy, ¶ 522.08 (16th ed. 2019). Accordingly, a debtor's exemptible interest in homestead property should not be reduced absent a showing of specific intent to hinder, delay or defraud, but a party may rely upon certain "badges of fraud" to prove the existence of actual fraud. *Id.*

On March 7, 2019, Movant initiated an adversary proceeding against the Debtor by filing a complaint (the "Complaint") asserting claims under §§ 523(a)(2)(A), (a)(4), (a)(6) and 727(a)(2), (a)(3), (a)(4), and (a)(5) [2:19-ap-01605] (the "Non-Dischargeability Action"). The allegations set forth in the Complaint are substantially

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CONT... Neilla M Cenci

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similar to the assertions underlying Movant's Objection to Homestead Exemption. Accordingly, it appears that any ruling with respect to the instant motion may have preclusive effect and potentially interfere with the Non-Dischargeability Action. Therefore, the Court finds it appropriate to defer ruling on the Objection to Homestead Exemption until the Non-Dischargeability Action has concluded.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Jessica Vogel at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Neilla M Cenci

Represented By  
James R Selth

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#100.00 Hearing  
RE: [4302] Emergency Motion to Approve Agreements with the State of California In Response To The Covid-19 Healthcare Emergency To (I) Provide Certain Healthcare Services At Seton Medical Center and (II) Lease St. Vincent Medical Center

Docket 4302

**Tentative Ruling:**

3/20/2020

**Pursuant to *General Order 20-02 In Re: Procedures for Public Emergency Related to COVID-19 Outbreak*, all parties are required to appear by telephone.**

Subject to any opposition that may be presented at the hearing, the Court is prepared to **GRANT** the Motion in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Emergency Motion to Approve Agreement with the State of California in Response to the COVID-19 Healthcare Emergency to (I) Provide Certain Healthcare Services at Seton Medical Center and (II) Lease St. Vincent Medical Center [Doc. No. 4302] (the "Motion")
  - a) Addendum to [Motion] [Doc. No. 4309]
- 2) Order Setting Hearing on Debtors' Emergency Motion to Approve Agreements with the State of California in Response to the COVID-19 Healthcare Emergency [Doc. No. 4306]

**I. Facts and Summary of Pleadings**

Debtors move for entry of an order approving (1) a *Services Agreement* between Verity Healthcare System of California Inc. ("VHS") and Seton Medical Center ("Seton"), on the one hand, and the California Department of Public Health (the "State"), on the other hand (the "Seton Agreement") and (2) a *Master Lease Agreement* between VHS and St. Vincent Medical Center ("St. Vincent"), on the one hand, and the State, on the other hand (the "St. Vincent Agreement," and together

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**Chapter 11**

with the Seton Agreement, the “Agreements”). The Debtors assert that the Agreements will assist the State in responding to the public health emergency resulting from the COVID-19 epidemic and will inject much-needed cash into the estates.

Pursuant to the *Order Setting Hearing on Debtors’ Emergency Motion to Approve Agreements with the State of California in Response to the COVID-19 Healthcare Emergency* [Doc. No. 4306], opposition to the Motion may be presented at the hearing.

**A. Background**

On August 31, 2018 (the “Petition Date”), VHS and certain of its subsidiaries (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors’ cases are being jointly administered. As of the Petition Date, the Debtors operated six hospitals (the “Hospitals”).

On January 9, 2020, the Court authorized the Debtors to implement a plan to close St. Vincent on an emergency basis (the “Closure Plan”). *See* Doc. No. 3934 (the “Closure Order”). Pursuant to the Closure Order, emergency services were discontinued as of January 9, 2020, the dialysis center was closed as of January 13, 2020, all inpatients were discharged or transferred as of January 18, 2020, all outpatient visits ceased as of January 22, 2020, and all transplant candidates were transferred as of January 23, 2020. The only remaining tasks to be completed under the Closure Plan are (1) the transition of patient medical records to off-site storage, which is scheduled for March 27, 2020, and (2) hazardous waste removal, which is scheduled for March 27, 2020. *See* Doc. Nos. 3982 and 4308 (status reports describing implementation of the Closure Plan).

The Debtors are continuing to operate Seton and are in the process of negotiating a sale of Seton as an operating hospital.

On March 4, 2020, Governor Gavin Newsom issued a proclamation, pursuant to Cal. Gov’t Code § 8625, declaring a state of emergency in California (the “Proclamation”). Concurrently with the Proclamation, Governor Newsom issued Executive Order N-25-20 (the “Executive Order”), which provides that “there is a need to secure numerous facilities to accommodate quarantine, isolation, or medical treatment of individuals testing or exposed to COVID-19.” The Executive Order asserts that the State possesses the “power to commandeer property” in furtherance of the objective of securing such facilities.

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**B. The Seton Agreement**

The material terms of the Seton Agreement are as follows:

- 1) Debtors shall continue to operate Seton, but shall designate a specified number of beds for the treatment of COVID-19 patients (the “Designated Space”), and shall provide healthcare services to COVID-19 patients within the Designated Space. Seton Agreement at § 2.2.
- 2) The State shall pay the Debtors \$5 million in exchange for the healthcare services to be provided during the first month under the Agreement. Seton Agreement Ex. B at § 2.1. For subsequent months, the State shall pay the estates \$2.7 million, plus an additional amount of up to \$2.3 million (such that the total payment would not exceed \$5 million), depending upon the number of beds designated for the treatment of COVID-19 patients. *Id.*
- 3) The Seton Agreement terminates on the 181st day after entry of an order of the Bankruptcy Court approving the Agreement, unless extend by mutual consent of the parties. Seton Agreement, Ex. B at § 4.2.
- 4) During the term of the Seton Agreement, Seton shall only close if agreed to in writing by the State. Seton Agreement at § 5.23.
- 5) The Seton Agreement “may not be assigned, absent the State’s written consent via an amendment to this Agreement, which shall not be unreasonably withheld. In evaluating whether assignment is reasonable, the proposed assignee shall be required to provide adequate assurance to the State of its ability to perform all ... remaining obligations under this Agreement (a “Qualified Buyer”). In the event Seton Medical Center is sold during the term of this Agreement and pursuant to a sale authorized by the Bankruptcy Court, the Qualified Buyer shall be obligated to perform all obligations under this Agreement without interruption of patient care. In the event of a sale of the Hospital described in this Paragraph, the State may condition its consent upon an agreed change in Compensation under the Agreement upon the effective date of buyer’s operations under new licenses.” Seton Agreement, Ex. B at § 1.1.
- 6) Any dispute under the Seton Agreement “shall be resolved exclusively before the United States Bankruptcy Court for the Central District of California.” Seton Agreement, Ex. B at § 2.1. The parties “expressly waive any rights to a jury trial.” *Id.*
- 7) The Seton Agreement shall not become effective unless the Bankruptcy Court

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enters an order satisfactory to both parties containing the following terms:

- a) The “State’s actions under the Executive Order N-25-20 and through the Agreements under the facts of these Cases to obtain control or use of the Debtors’ property are exempt from the automatic stay as valid exercises of the State’s police powers under § 362(b)(4) of the Bankruptcy Code and otherwise not subject to the automatic stay under § 362(a) of the Bankruptcy Code.” Seton Agreement, Ex. B at § 5.5.
- b) “Unless a court of competent jurisdiction has determined that the State is in material breach of this Agreement, the rights conveyed to the State under the Agreements and the Proposed Order are inviolable, and not subject to alteration, interference or divestiture by any party, including, without limitation, any creditor, interest holder, or party in interest, in the Debtors’ Cases, without regard to any liens, claims, encumbrances and/or interests those parties may assert, allege and/or possess, including, for the avoidance of doubt, any liens, claims, encumbrances and/or interests of the Prepetition Secured Creditors (as defined in the Cash Collateral Orders) under the Cash Collateral Orders ....” *Id.*

**C. The St. Vincent Agreement**

The material terms of the St. Vincent Agreement are as follows:

- 1) Debtors shall lease St. Vincent to the State in exchange for monthly rent of \$2.6 million. St. Vincent Agreement at § 3.1. The State shall be responsible for payment of all costs associated with the maintenance of St. Vincent, including without limitation taxes, insurance premiums, utility charges, and maintenance and replacement expenses. *Id.* at §§ 3.2 and 4.1.
- 2) The State shall use St. Vincent to operate a general acute care hospital devoted to the treatment of COVID-19 patients. *Id.* at § 5.1. The State shall have exclusive control, possession, occupancy, use, and management of the premises. *Id.* at § 5.2.
- 3) The term of the St. Vincent Agreement is six months, subject to monthly extensions for up to an additional six months. *Id.* at § 2.
- 4) Upon approval by the Bankruptcy Court, the Debtors may transfer their fee simple interest in St. Vincent subject to the lease and without the consent of the State as tenant.
- 5) The St. Vincent Agreement shall not become effective unless the Bankruptcy

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Court enters an order satisfactory to both parties containing the following terms:

- a) The State's "actions under the Executive Order N-25-20 and through this Lease under the facts of the Bankruptcy Case to obtain control or use of [Debtors'] property are exempt from the automatic stay as valid exercises of [the State's] police power under § 362(b)(4) and otherwise not subject to the automatic stay under § 362(a). *Id.* at § 1.
- b) "Unless a court of competent jurisdiction has determined that [the State] is in material breach of this Lease, the rights conveyed to [the State] under this Lease and the order are inviolable, and not subject to alteration, interference or divestiture by any party, including, without limitation, any creditor, interest holder, or party in interest, in the Debtors' Cases, without regard to any liens, claims, encumbrances and/or interests those parties may assert, allege and/or possess, including, for the avoidance of doubt, any liens, claims, encumbrances and/or interests of the Prepetition Secured Creditors (as defined in the Cash Collateral Orders) under the Cash Collateral Orders ...." *Id.*

## **II. Findings and Conclusions**

### **A. The COVID-19 Healthcare Crisis Necessitates Emergency Relief**

Relief on an emergency basis is necessary in view of the public health crisis resulting from the COVID-19 epidemic. Additional healthcare beds are urgently needed to care for those affected by the epidemic. If these additional beds are not made available immediately, the healthcare systems in Los Angeles County (where St. Vincent is located) and San Mateo County (where Seton is located) will not have sufficient capacity to respond effectively to the exponential increase in infections.

Emergency relief is also warranted by the estates' precarious financial position. The Seton Agreement will inject cash needed to cover operating losses at Seton. The estates continue to accrue costs associated with St. Vincent notwithstanding its closure. The lease payments under the St. Vincent Agreement will offset some of these costs.

### **B. Subject to Any Opposition that May Be Presented at the Hearing, the Court is Prepared to Grant the Motion**

Section 363(b) permits the Debtors to use estate property out of the ordinary course of business, subject to court approval. The Debtors must articulate a business

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CONT... Verity Health System of California, Inc.

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justification supporting the proposed use of the property. *In re Walter*, 83 B.R. 14, 19–20 (9th Cir. BAP 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19–20. In evaluating the asserted business justification, the Court applies the business judgment standard, under which the Court presumes that the Debtors "acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." *Agarwal v. Pomona Valley Med. Grp., Inc. (In re Pomona Valley Med. Grp., Inc.)*, 476 F.3d 665, 670 (9th Cir. 2007).

The Debtors have articulated ample business justification for entering into the Agreements. First, the Agreements further the Debtors' charitable mission of providing healthcare to members of their communities. Second, the Agreements provide needed cash for the estates. Third, entry into the Agreements will not prevent the Debtors from continuing to pursue sales of Seton and St. Vincent.

The Court finds the proposed order submitted in connection with the Motion to be appropriate. Notwithstanding Bankruptcy Rule 6004(h), the order on the Motion shall take effect immediately. A stay would harm public health by delaying the State's ability to increase the healthcare system's capacity to fight the epidemic.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



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9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01394 Elissa D. Miller, solely in her capacity as chapte v. Grandmaison

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01394. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Grandmaison Construction, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

fr. 10-28-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE RE:  
SETTLEMENT 6-16-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Grandmaison Construction, Inc., a

Represented By  
Mark T Young

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

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**CONT... QUIGG LA11, LLC**

**Chapter 7**

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

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**Monday, March 23, 2020**

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9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01399 Elissa D. Miller, solely in her capacity as chapte v. Old World Precast, Inc., a

**#2.00** Trial

RE: [1] Adversary case 2:18-ap-01399. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Old World Precast, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

fr: 10-15-19; 3-10-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE RE  
SETTLEMENT 6-16-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Old World Precast, Inc., a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev

**United States Bankruptcy Court  
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**CONT...**

**QUIGG LA11, LLC**

Asa S Hami  
Jessica Vogel

**Chapter 7**

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**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01407 Elissa D. Miller, solely in her capacity as chapte v. HD Supply Construction

**#3.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01407. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against HD Supply Construction Supply Group, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

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Docket 1

**\*\*\* VACATED \*\*\* REASON: Status Conference to monitor  
consummation of the settlement 6-16-20 at 10:00 a.m.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

HD Supply Construction Supply

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami

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**QUIGG LA11, LLC**

Jessica Vogel

**Chapter 7**

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**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01417 Elissa D. Miller, solely in her capacity as chapte v. JC Drywall Designs, Inc.,

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01417. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against JC Drywall Designs, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

FR. 10-28-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 3-5-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

JC Drywall Designs, Inc., a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami

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CONT...

**QUIGG LA11, LLC**

Jessica Vogel

**Chapter 7**



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**Hearing Room 1568**

9:00 AM

**2:17-12677 Green Jane Inc**

**Chapter 7**

Adv#: 2:19-01061 Rosendo Gonzalez, Chapter 7 Trustee v. TCG Assets, Inc., a Colorado

**#5.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01061. Complaint by Rosendo Gonzalez, Chapter 7 Trustee against TCG Assets, Inc., a Colorado corporation, TCG International Holdings, Inc., a Florida corporation, Michael B. Citron, an individual, Kenneth R. Morris, an individual, Law Office of Kenneth R. Morris LLC, a Colorado limited liability company, The Ulzheimer Group LLC, a Georgia limited liability, John Ulzheimer, an individual, Nicholas Moffat, an individual. (Charge To Estate). Complaint for 1. Avoidance of Transfers Pursuant to 11 U.S.C. § 544; 2. Avoidance of Avoidable Transfers Pursuant to 11 U.S.C. § 548; 3. Recovery on Account of Avoided Transfers Pursuant to 11 U.S.C. § 550(a); 4. Turnover of Funds of Estate Pursuant to 11 U.S.C. § 542; and 5. Breach of Fiduciary Duty 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)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Melissinos, C)

FR. 1-27-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Defendant(s):**

TCG Assets, Inc., a Colorado

Pro Se

TCG International Holdings, Inc., a

Pro Se

Michael B. Citron, an individual

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 23, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**Green Jane Inc**

**Chapter 7**

Kenneth R. Morris, an individual	Pro Se
Law Office of Kenneth R. Morris	Pro Se
The Ulzheimer Group LLC, a	Pro Se
John Ulzheimer, an individual	Pro Se
Nicholas Moffat, an individual	Pro Se

**Plaintiff(s):**

Rosendo Gonzalez, Chapter 7

Represented By  
C John M Melissinos

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 23, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-13016 Sharp Edge Enterprises**

**Chapter 7**

Adv#: 2:18-01163 Leslie v. Reihanian et al

**#6.00** Trial Date Set

RE: [10] Amended Complaint by Christian T Kim on behalf of Sam S. Leslie, Sam S Leslie (TR) against Leon Reihanian. (RE: related document(s)1 Adversary case 2:18-ap-01163. Complaint by Sam S. Leslie against Leon Reihanian. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)) filed by Plaintiff Sam S. Leslie). (Kim, Christian)  
fr. 6-11-19; 7-29-19

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-24-20 AT 9:00 AM**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Sharp Edge Enterprises

Represented By  
Peter A Davidson

**Defendant(s):**

Leon Reihanian

Represented By  
Raymond H. Aver

DOES 1-20, inclusive

Pro Se

Abraham Reihanian, as Trustee of

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Christian T Kim  
James A Dumas Jr

**Trustee(s):**

Sam S Leslie (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 23, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Sharp Edge Enterprises**

**Chapter 7**

Christian T Kim  
James A Dumas Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 23, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-22393 Sharon R Williams**

**Chapter 7**

Adv#: 2:19-01050 Miller v. Hancox

**#7.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01050. Complaint by Elissa D. Miller against Donnell Hancox. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(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))) (Simons, Larry)

fr. 1-27-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-26-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Sharon R Williams

Pro Se

**Defendant(s):**

Donnell Hancox

Pro Se

**Plaintiff(s):**

Elissa D. Miller

Represented By  
Larry D Simons

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 23, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-22399 Dorothy Victoria Long**

**Chapter 7**

Adv#: 2:19-01086 United States Trustee for the Central District of v. Long

**#8.00** Trial  
RE: [1] Adversary case 2:19-ap-01086. Complaint by United States Trustee (LA) against Dorothy Victoria Long. (Fee Not Required). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference)  
Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e)))  
(Morrison, Kelly)  
fr. 6-11-19; 2-24-2020

Docket 1

\*\*\* VACATED \*\*\* REASON: Cont'd to 6/23/2020 at 9:00 a.m.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Dorothy Victoria Long Pro Se

**Defendant(s):**

Dorothy Victoria Long Pro Se

**Plaintiff(s):**

United States Trustee for the Central Represented By  
Kelly L Morrison

**Trustee(s):**

Brad D Krasnoff (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 23, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-13059 Norberto Pimentel**

**Chapter 7**

Adv#: 2:19-01146 Wesley H Avery, Chapter 7 Trustee v. Pimentel et al

**#9.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01146. Complaint by WESLEY Howard AVERY against Norberto Pimentel, Erica Pimentel. (Charge To Estate). Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Stevens, Adam)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-24-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Norberto Pimentel

Represented By  
Marcus Gomez

**Defendant(s):**

Norberto Pimentel

Pro Se

Erica Pimentel

Pro Se

**Joint Debtor(s):**

Erica Pimentel

Represented By  
Marcus Gomez

**Plaintiff(s):**

Wesley H Avery, Chapter 7 Trustee

Represented By  
Georgeann H Nicol  
Adam Stevens

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Adam Stevens

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-13059 Norberto Pimentel**

**Chapter 7**

Adv#: 2:19-01146 Wesley H Avery, Chapter 7 Trustee v. Pimentel et al

**#1.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01146. Complaint by WESLEY Howard AVERY against Norberto Pimentel, Erica Pimentel. (Charge To Estate). Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Stevens, Adam)

fr. 3-12-20

Docket 1

\*\*\* VACATED \*\*\* REASON: Cont'd to 6/24/2020 at 9:00 a.m.

**Party Information**

**Debtor(s):**

Norberto Pimentel

Represented By  
Marcus Gomez

**Defendant(s):**

Norberto Pimentel

Pro Se

Erica Pimentel

Pro Se

**Joint Debtor(s):**

Erica Pimentel

Represented By  
Marcus Gomez

**Plaintiff(s):**

Wesley H Avery, Chapter 7 Trustee

Represented By  
Georgeann H Nicol  
Adam Stevens

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Adam Stevens



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24415 Jose Santiago Gonzalez and Noemi Gonzalez**

**Chapter 7**

**#1.00** HearingRE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13219 Duffield Avenue, La Mirada, CA 90638 .

Docket 12

**Tentative Ruling:**

3/25/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Movant has established a *prima facie* case that cause exists, and Debtor has not responded with evidence establishing that the property is not declining in value or that Movant is adequately protected.

The subject property has a value of \$495,000 (Exhibit 3) and is encumbered by a perfected deed of trust of the Movant in the sum of \$79,631.10. See Motion at 8.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Jose Santiago Gonzalez and Noemi Gonzalez**

**Chapter 7**

Considering Movant's lien, all senior liens against the property, and the estimated costs of sale, there is an equity cushion of \$63,438.90. *See* Motion at 8-9. There is some, but very little equity and there is no evidence that the property is necessary to a reorganization or that the trustee can administer the property for the benefit of creditors. Movant is protected by a 12.8% equity cushion in the property. The Ninth Circuit has established that an equity cushion of 20% constitutes adequate protection for a secured creditor. Pistole v. Mellor (In re Mellor), 734 F.2d 1396, 1401 (9th Cir. 1984); *see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.)*, 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral).

Because the equity cushion in this case is less than 20%, the Court concludes that Movant's interest in the collateral is not adequately protected. This is cause to terminate the stay under 11 U.S.C. § 362(d)(1).

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Jose Santiago Gonzalez

Represented By  
Douglas L Weeks

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Jose Santiago Gonzalez and Noemi Gonzalez**

**Chapter 7**

**Joint Debtor(s):**

Noemi Gonzalez

Represented By  
Douglas L Weeks

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10657 David Murphy and Amy Murphy**

**Chapter 7**

**#2.00** HearingRE: [17] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Ford F150, VIN: 1FTEW1C54KKC98531 . (Wang, Jennifer)

Docket 17

**Tentative Ruling:**

3/25/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... David Murphy and Amy Murphy**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

David Murphy

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Amy Murphy

Represented By  
Julie J Villalobos

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10796 Dayle Marshall**

**Chapter 7**

**#3.00** HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 18450 Pondersoa Trail, Lower Lake, California .

Docket 9

**Tentative Ruling:**

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Movant has established a *prima facie* case that cause exists, and Debtor has not responded with evidence establishing that the property is not declining in value or that Movant is adequately protected.

The subject property has a value of \$580,231 (Exhibit 3) and is encumbered by a perfected second deed of trust in favor of the Movant in the sum of \$88,124.35. *See* Motion at 8. Considering Movant's lien, all senior liens against the property, and the estimated costs of sale, there is an equity cushion of \$7,288.65. There is some, but

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Dayle Marshall**

**Chapter 7**

very little equity and there is no evidence that the property is necessary to a reorganization or that the trustee can administer the property for the benefit of creditors. Movant is protected by a 1.25% equity cushion in the property. The Ninth Circuit has established that an equity cushion of 20% constitutes adequate protection for a secured creditor. Pistole v. Mellor (In re Mellor), 734 F.2d 1396, 1401 (9th Cir. 1984); see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.), 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral).

Because the equity cushion in this case is less than 20%, the Court concludes that Movant's interest in the collateral is not adequately protected. This is cause to terminate the stay under 11 U.S.C. § 362(d)(1). Additionally, the Court takes judicial notice of the Debtor's intention to surrender the subject property. See Motion, Ex. 5.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Dayle Marshall

Represented By  
Gregory M Shanfeld

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Dayle Marshall**

**Chapter 7**

**Trustee(s):**

Heide Kurtz (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11285 Sandra Guerrero**

**Chapter 7**

**#4.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Acura ILX, VIN: 19VD E1F3 7FE0 04467 .

Docket 8

**Tentative Ruling:**

3/25/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Sandra Guerrero**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Sandra Guerrero

Pro Se

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11398 Ernie Armijo, Jr.**

**Chapter 7**

**#5.00** Hearing  
RE: [10] Notice of Motion and Motion for Relief from The Automatic Stay Under 11 U.S.C. § 362 (with supporting declarations) (Action in Nonbankruptcy Forum)).

Docket 10

**Tentative Ruling:**

3/25/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Motion is DENIED without prejudice. Movant's proofs of service [Doc. Nos. 10 & 15] do not reflect service on the Debtor as required by Local Bankruptcy Rule 4001-1(c)(1)(C)(i). Movant may refile the motion with service upon the Debtor, and any other interested party requiring service, in accordance with applicable local and federal rules.

The Movant shall lodge a conforming proposed order within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Ernie Armijo, Jr.**

**Chapter 7**

**Debtor(s):**

Ernie Armijo Jr.

Represented By  
Daniel King

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11925 Stephen Winner**

**Chapter 7**

**#6.00** Cont'd Hearing  
RE: [6] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 4935 Locust Ave., Long Beach, CA 90805 .

fr. 3-16-20

Docket 6

**Tentative Ruling:**

3/26/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is DENIED.

Stephen Winner (the "Debtor") filed a voluntary chapter 7 petition on February 21, 2020 (the "Petition Date") [Doc. No. 1].

On March 3, 2020, Angelson, LLC (the "Movant") filed the "Notice of Motion and Motion for Relief from the Automatic Stay, or For Order Confirming that the Automatic Stay Does Not Apply under 11 U.S.C. § 362(l)" (the "Motion") [Doc. No. 6]. On March 16, 2020, the Court continued the hearing on the Motion to March 30, 2020, given that the Movant failed to demonstrate proper service on the Debtor. The Court further instructed Movant that by no later than March 23, 2020, Movant was required to: (i) file a notice of continued hearing ("Notice") on the docket; (ii) serve the Motion and Notice on the Debtor by posting or personal service; and (iii) file a proof of service evidencing compliance with the ruling. As of March 25, 2020, the Movant has not filed any additional documents, or, as far as the Court is aware, otherwise complied with its ruling.

Based on the foregoing, the Motion is DENIED. The Court will prepare the order.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, March 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Stephen Winner**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

3/12/2020 (amended after hearing)

For the reasons set forth herein, CONTINUE HEARING to **March 30, 2020 at 10:00 a.m. BY TELEPHONE ONLY.** Pursuant to the Court's "Self-Calendaring Instructions" for residential unlawful detainer motions for relief from stay on shortened notice, no later than 7-days prior to the hearing, the motion and supporting documents are required to be served by posting or personal service on the Debtor. Here, although the proof of service attached to the Motion is dated 3/3/2020, it does not specify that the Debtor was served either by personal delivery or posting (as opposed to overnight mail service, facsimile transmission, and/or e-mail) as required by the Court's Self-Calendaring Instructions. By no later than **March 23, 2020**, Movant is directed to take the following actions: (i) file a notice of continued hearing ("Notice") on the docket; (ii) serve the Motion and Notice on the Debtor by posting or personal service; and (iii) file a proof of service evidencing compliance with this ruling. Failure to timely comply with any of the foregoing will result in denial of the motion.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a

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**CONT... Stephen Winner**

**Chapter 7**

telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Stephen Winner

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24273 Scott Colin Gerfers**

**Chapter 7**

**#1.00** HearingRE: [13] Motion to Dismiss Case for Abuse and Notice of Motion (BNC) pursuant to 11 U.S.C. Sec. 707(b)(1), (b)(2), and (b)(3)(B) and Contingent Motion to Extend Bar Date for Filing Complaint under 11 U.S.C. Sec. 727 Objecting to Debtor's Discharge (Attachments: # 1 POS) (Yip, Hatty)

Docket 13

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED. However, the Court deems the filing of the Conversion Motion as Debtor's consent to chapter 13 conversion, in lieu of case dismissal. Subject to any opposition that may be presented at the hearing, the Court is prepared to GRANT the Conversion Motion herewith, notwithstanding that the 17-day objection period has not yet elapsed.

**Pleadings Filed and Reviewed:**

- 1) United States Trustee's Notice of Motion and Motion to Dismiss Chapter 7 Case Pursuant to 11 U.S.C. §§707(b)(1), (b)(2), and (3)(B) and Contingent Motion to Extend Bar Date For Filing Complaint Under 11 U.S.C. § 727 Objecting to Debtor's Discharge (the "Motion") [Doc. No. 13]
  - a) Request for Judicial Notice [Doc. No. 14]
- 2) Notice of Motion and Debtor's Motion to Convert Case under 11 U.S.C. § 706(a) [Doc. No. 17] (the "Conversion Motion")
- 3) As of the date of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Scott Colin Gerfers (the "Debtor") commenced a voluntary chapter 7 petition on December 6, 2019 (the "Petition Date"). The Debtor owes primarily consumer, non-



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business debts, consisting of \$47,543 in nonpriority unsecured debt. *See* RJN, Ex. 2 [Debtor's Official Form 101 and Schedule E/F] [**Note 1**]. As set forth on his amended Means Test form (the "Debtor's Means Test), the Debtor represents having an adjusted current monthly income ("CMI") of \$5,721.90—annualized to \$68,662.80—and allowed deductions of \$5,615.48, demonstrating monthly disposable income of \$106.42. *See* RJN, Ex. 3 [the Debtor's Means Test]. The Debtor states that the presumption of abuse is not triggered because his total disposable income over the next sixty months is \$6,385.20, below the threshold of abuse imposed by the means test. *Id.* The § 341(a) meeting of the creditors occurred on January 6, 2020 and concluded that same day. On January 16, 2020, the United States Trustee's Office (the "UST") filed a Statement of Presumed Abused and subsequently filed a motion to dismiss the Debtor's case for abuse pursuant to 11 U.S.C. § 707(b) (the "Motion") on February 13, 2020 [Doc. No. 13].

**Summary of the Motion**

The UST moves to dismiss this case because an appropriate calculation of Debtor's monthly disposable income triggers the presumption of abuse pursuant to 11 U.S.C. § 707(b)(2) (the "Means Test"). Alternatively, the UST argues that Debtor's case should be dismissed for abuse under the "totality of the circumstances" theory found in § 707(b)(3)(B). According to the UST, the Debtor erroneously completed Means Test calculations, significantly understating his CMI by improperly or unjustifiably claiming certain deductions. The UST claims that a proper Means Test calculation would show that the Debtor has \$485.88 in monthly disposable income, after allowed deductions, equating to income of \$29,152.80 over sixty months, which is sufficient to repay 61.3% of unsecured claims through that period. Motion at 10. The UST furnished a revised Means Test form (the "UST's Means Test") [Exhibit 3 of the Motion], which corrects inaccuracies contained in the Debtor's Means Test [RJN, Ex. 3]. In support of the Motion, the UST further attached the declaration of bankruptcy analyst, Yolanda Cannon, who asserts that the UST's Means Test is based on her review of the schedules, statements, and other financial records submitted by Debtor. *See* Declaration of Yolanda Cannon [Cannon Decl.], ¶ 7.

The UST asserts that the Debtor improperly claimed the following expense deductions:

1. Line 9 (Local Housing and Utilities Allowance, Debtor claimed \$1994 but could have only claimed \$1,741). To claim an adjustment on the housing and

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utilities allowance, a debtor must provide that "special circumstances" warrant such adjustment. The UST argues that the mere fact that a debtor's rent exceeds IRS local standards for rental expenses is not a special circumstance. *See* Motion at 12 (citing to *In re Harris*, 522 B.R. 804, 819 (Bankr. E.D.N.C. Dec. 24, 2014)). Here, the Debtor has not advanced any justification for claiming a housing allowance that exceeds local standards.

2. Line 33 (monthly repayment of loan taken against 401(k) account, Debtor claimed \$87.94 but should have claimed \$0). The UST argues that a debtor's obligation to make loan payments against retirement accounts does not constitute "debt" in the bankruptcy context. Motion at 13 (citing to *In re Egebjerg*, 574 F.3d 1045, 1049-1050 (9th Cir. 2009)). Therefore, the Debtor's monthly 401(k) loan repayment cannot be deducted as a secured debt obligation.
3. Line 13 (vehicle ownership expenses, Debtor claimed \$200 but should have claimed \$0). Pursuant to the Supreme Court's decision in *Ransom*, debtors may not claim vehicle ownership expenses, if they have not actually incurred expenses arising from the purchase or lease of a vehicle. The UST asserts that the Debtor's commencement schedules do not indicate that he makes any loan or lease payments on his vehicle. *See* Motion at 15; RJN, Ex. 2 [Debtor's Schedules D and J]. Therefore, the UST submits that the Debtor is not entitled to such expense deductions.
4. Line 23 (optional telephone services, Debtor claimed \$100 but should have claimed \$0). The UST argues that the Debtor has not explained why such expenses are "necessary for [his] health or welfare or that of [his] dependents," or otherwise justified. Motion at 15.
5. Line 12 (vehicle operation expenses, Debtor should have claimed \$473, instead of only \$273). The UST clarifies that the Debtor miscalculated this expense, which should have been \$200 higher.
6. Line 36 (estimated chapter 13 administrative expenses, Debtor should have claimed \$43.48, instead of \$0). The Debtor should have included the amount of administrative expenses estimated under chapter 13.

Based on the foregoing, the UST submits that the Debtor's allowed expense deductions total only \$5,236.02, indicating that the Debtor's disposable income over sixty months is sufficient to repay 61.3% of unsecured claims over the next five years. Motion at 17. Even if the Court does not find presumed abuse, the UST maintains that this case can be dismissed as "abusive" under § 707(b)(3)(B) based on the "totality of

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the circumstances." The UST asserts that based on Debtor's Schedules I and J, Debtor would have net income of \$40,735.80 over the next five years, a sufficient amount to pay 85.7% of unsecured claims. *See Cannon Decl.*, ¶ 32. In the alternative, if the Court does not grant this Motion, the UST requests an order extending the bar date to file a nondischargeability action under § 727.

As of the date of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

### **A. The Debtor's Case is Presumptively Abusive**

This Court has explained the function and purpose of the Means Test as follows:

Among the significant changes effected by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") was the introduction of the § 707(b)(2) Means Test. Designed to ferret out abusive bankruptcy petitions, the Means Test creates a "presumption of abuse" if the debtor's Current Monthly Income (CMI)—as determined by a detailed statutory formula—is above a certain amount. Debtors unable to rebut the presumption of abuse may have their cases dismissed or be required to fund a Chapter 13 plan. However, even debtors who survive the Means Test may see their cases dismissed pursuant to § 707(b)(3)(B), which permits the Court to dismiss a case if "the totality of the circumstances ... of the debtor's financial situation demonstrates abuse."

*In re Jensen*, 407 B.R. 378, 380–81 (Bankr. C.D. Cal. 2009).

"Current monthly income" ("CMI") for purposes of the Means Test calculation is defined as the "average monthly income from all sources that the debtor receives ... during the 6-month period ending on the last day of the calendar month immediately preceding the date of the commencement of the case ...." 11 U.S.C. § 101(10A).

#### ***i. The Debtor's CMI is \$5,721.90***

Both the Debtor and the UST agree that that Debtor has a CMI of \$5,721.90. *See Motion, Ex. 3; RJN, Ex. 3.*

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***ii. The Debtor is entitled to claim deductions totaling \$5,236.02***

The Debtor's Means Test indicates that Debtor claimed monthly income deductions of \$5,615.48. *See* RJN, Ex. 3. The UST rests its argument on the claim that Debtor inaccurately completed the Means Test with respect to six line items: Lines 9 (local housing and utilities allowance), 33 (secured debt payments), 12 (vehicle operation expenses), 13 (vehicle ownership expenses), 23 (optional telephone services), and 36 (estimated chapter 13 expenses).

The Code provides that a debtor's monthly expense allowances consist of "the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards." *See* 11 U.S.C. § 707(b)(2)(A)(ii)(I). The House Report issued concurrently with BAPCPA explains that the relevant standards are those listed in the Internal Revenue Service Financial Analysis Handbook (the "IRS Handbook") as Necessary Expenses under the National and Local Standards categories. H.R.Rep. No. 109-31 at 13-14 (2005), U.S. Code Cong. & Admin. News 2005, p. 88 (footnotes omitted). The IRS Handbook is part of the IRS's Internal Revenue Manual (the "IRM"). H.R.Rep. No. 109-31 at 13, n. 62. "[T]he local standards for housing, utilities, and transportation serve as a cap. The taxpayer is allowed the local standard or the amount actually paid, whichever is less." IRM § 5.19.1.4.3.2(2) (emphasis omitted). "If a debtor's actual expenses exceed the amounts listed in [the IRS's] National and Local Standards tables, the debtor may claim an allowance only for the specified sum, rather than for his real expenditures." *Ransom v. FIA Card Servs., N.A.*, 562 U.S. 61, 131 S. Ct. 716, 178 L. Ed. 2d 603 (2011). In the Ninth Circuit, the Bankruptcy Appellate Panel has recognized that above-median debtors may attempt to claim expenses in excess of the "IRS Standards" based on "special circumstances" under 11 U.S.C. § 707(b)(2)(B). *See In re Luedtke*, 508 B.R. 408, 416 (B.A.P. 9th Cir. 2014) (internal citations omitted).

Having reviewed the UST's arguments, and noting the lack of opposition, the Court finds that the proposed line adjustments to Debtor's Means Test are appropriate as listed below. First, with respect to Debtor's housing expenses (Line 9), the Court determines that *Ransom* is applicable where the Debtor has attempted to claim rental expenses surpassing the Los Angeles housing expense standards, without citing any special circumstances. Second, it is well-settled precedent that vehicle ownership expenses may not be claimed where the debtor owns the subject vehicle free and clear. *See Ransom*, 562 U.S. at 68 (affirming the Ninth Circuit's finding that debtors may not

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claim vehicle ownership deductions in the means test for vehicles owned outright). Therefore, because Debtor's schedules do not indicate that he is obligated to make any car payments, Debtor may not claim any Line 13 deductions. Third, the Ninth Circuit has established that an obligation to repay a 401(k) loan does not constitute secured debt; therefore, debtors may not deduct such payments for purposes of the means test under § 707(b)(2). *See In re Egebjerg*, 574 F.3d at 1049. Additionally, the mere obligation to make payments on a 401(k) loan cannot be deemed a special circumstance either. *Id.* at 1052-53. Based on the *Egebjerg* decision, the Debtor may not claim a monthly deduction of \$87.94 for 401(k) loan payments listed in Line 33. The Court accepts the remainder of the UST's proposed revisions to Lines 12, 23, and 36 as the Debtor either miscalculated or failed to justify the information provided thereon.

In sum, the Court determines that the Debtor is only entitled to claim \$5,236.02 in expense deductions for the purpose of the Means Test calculation.

***iii. Means Test Calculation***

Based on the foregoing, the presumption of abuse arises. Debtor's CMI is **\$5,721.90**. The Debtor's total monthly expense deductions are **\$5,236.02**. That leaves the Debtor with monthly disposable income of \$485.88, or disposable income over a 60-month period of **\$29,152.80**, which would be sufficient to pay off 61.3% of unsecured claims. The Debtor's disposable income far exceeds the \$13,650 threshold triggering the presumption of abuse under §707(b)(2)(A)(i)(II).

**B. The Debtor Has Failed to Rebut the Presumption of Abuse**

Section 707(b)(2)(B)(i) provides that the presumption of abuse may be rebutted by "demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances ... justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative." To establish special circumstances, the Debtor must itemize each additional expense and provide "a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable." § 707(b)(2)(B)(ii). Here, the Debtor has failed to file an opposition; and therefore, the presumption of abuse arises under §707(b) and has not been rebutted. Because the Court finds that this petition is presumptively abusive, it will not consider dismissal under the totality of the circumstances test, or the UST's request to extend

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the deadline to object to the Debtor's discharge.

**C. The Case Will Be Converted to Chapter 13**

Where the §707(b) presumption of abuse arises and has not been rebutted, the Court must dismiss the case, unless the Debtor consents to conversion to chapter 13. 11 U.S.C. § 707(b)(1). The UST states that the Motion seeks only dismissal, not conversion. However, §707(b)(1) expressly provides debtors the option to convert to chapter 13 if the Court finds that relief under chapter 7 would be abusive. On March 25, 2020, the Debtor filed a *Motion to Convert Case under 11 U.S.C. § 706(a)* (the "Conversion Motion"), requesting to convert his case to one under chapter 13. Based on the filing of the Conversion Motion, the Court finds that the Debtor has clearly expressed consent to prosecute his case under chapter 13. Moreover, given that all interested parties have been on notice to the possibility of conversion from the outset of this Motion, the Court is prepared to grant the Conversion Motion, notwithstanding that the customary 17-day objection period has not elapsed yet.

**III. Conclusion**

For the reasons set forth above, the Motion is GRANTED as follows. Over a sixty-month period, the Debtor is projected to have \$29,152.80 in income available to repay 61.3% of unsecured claims. The §707(b) presumption of abuse arises and has not been rebutted. Following from this finding, the case would have been dismissed, unless the Debtor consented to conversion to chapter 13. The Court deems the filing of the Conversion Motion as Debtor's consent to chapter 13 conversion, in lieu of case dismissal. Subject to any opposition that may be presented at the hearing, the Court is prepared to GRANT the Conversion Motion herewith.

The UST is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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**Note 1:** Federal Rule of Evidence 201 allows a court to take judicial notice of facts that are not subject to reasonable dispute because they are either "(1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." *In re Blumer*, 95 B.R. 143, 147 (B.A.P. 9th Cir. 1988). A court may take judicial notice of bankruptcy petitions and schedules as these documents are public record capable of accurate and ready determination. *Becker v. Wells Fargo Bank, Nat. Ass'n*, 2012 WL 5187792 (E.D. Cal. Oct. 18, 2012). Here, the UST requests that the Court take judicial notice of Debtor's amended schedules, the Debtor's Means Test, the case docket, and three publicly-available bankruptcy court opinions. The Court finds it appropriate to take judicial notice of the above stated documents, and therefore, the UST's request is granted.

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

Scott Colin Gerfers

Represented By  
Christopher J Langley

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
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**2:20-11367 C & F Foods, Inc**

**Chapter 7**

**#2.00 Status Hearing**

RE: [1] Chapter 7 Involuntary Petition Against a Non-Individual - Inc. - :  
Hinrichs Trading, L.L.C. (attorney Michael Rogers), Rhodes-Stockton Bean Co-  
Op (attorney Michael Rogers), Tarke Bean, LLC (attorney Michael Rogers) .

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

C & F Foods, Inc

Pro Se



**United States Bankruptcy Court  
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**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11284 Damu Vusha and Akiba Vusha**

**Chapter 11**

**#3.00** HearingRE: [178] Motion to Withdraw as Attorney

Docket 178

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No appearances required. For the reasons set forth below, a continued Post-Confirmation Status Conference shall take place on **June 2, 2020, at 10:00 a.m.** The Motion to Withdraw is CONTINUED to be heard concurrently with the Post-Confirmation Status Conference. By no later than ten days prior to the continued hearing, the Debtors and Counsel shall meet and confer to try and settle any disagreements.

**Pleadings Filed and Reviewed:**

- 1) Chapter 11 Post-Confirmation Status Report [Doc. No. 180] (the "Status Report")
- 2) Motion to Withdraw as Reorganized Debtors' Bankruptcy Counsel [Doc. No. 178] (the "Motion to Withdraw")
- 3) Notice of Motion [Doc. No. 179]
- 4) As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Damu and Akiba Vusha (the "Debtors") filed a voluntary chapter 11 case on February 5, 2018. On March 9, 2018, the Court granted the Debtors' application to employ the Law Offices of Michael Jay Berger ("Counsel") as their general bankruptcy counsel [Doc. No. 35]. On November 27, 2019, the Court entered an *Order Granting Motion to Confirm Debtors' Amended Chapter 11 Plan of Reorganization* [Doc. No. 161] (the "Confirmation Order"). The first Post-Confirmation Status Conference was initially set for March 18, 2020, but the Court *sua sponte* continued the hearing to

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**CONT... Damu Vusha and Akiba Vusha**

**Chapter 11**

March 31, 2020, to be heard concurrently with the Motion to Withdraw.

**The Status Report**

The Debtors, through Counsel, filed the *Chapter 11 Post-Confirmation Status Report* on March 4, 2020 [Doc. No. 180] (the “Status Report”). Based on the Status Report, as of March 2020, the Debtors have accrued a deficiency on most outstanding plan payments, which include all payments on administrative claims and U.S. Trustee fees, as well as a sizeable amount due to the classes of secured, priority, and general unsecured creditors. *See* Status Report at 2-6 (providing an itemized status update on each outstanding payment). The Debtors are current on post-confirmation taxes. The Debtors claim that their ability to stay current on plan payments was compromised by approximately \$5,000 in medical costs incurred in February 2020, which were precipitated by unexpected “health-related issues” affecting Debtors and one of the Debtors’ mother. Status Report at 7. However, the Debtors project that their income stream will stabilize going forward. The Debtors plan to cure payment deficiencies by selling their rental property located at 1300 W. 69th Street, Los Angeles, CA 90044 (the “Property”), which they posted for sale on March 4, 2020. The Status Report further states that the Plan is expected to be consummated by January 2025, and the Debtors will request a final decree closing the case on an interim basis on or before June 30, 2020. As of the preparation of this tentative ruling, the Debtors have not responded to the Status Report on an individual basis.

**The Motion to Withdraw**

On February 7, 2020, Counsel filed an application for an abstract of judgment against the Debtors for unpaid attorney’s fees in the sum of \$14,839.13 [Doc. No. 174]. Thereafter, on March 4, 2020, Counsel filed a motion to withdraw as counsel (the “Motion to Withdraw”), given the Debtors’ failure to pay estate professionals’ outstanding bills, cooperate in the prosecution of their case, and due to the irreparable deterioration of Counsel’s relationship with his clients. Counsel states that it cannot elaborate on the particular details concerning the troubled relationship but asserts that the Debtors’ have refused to assist Counsel in the case and have breached provisions of the Counsel’s fee agreement.

As of the preparation of this tentative ruling, the Debtors have not filed an opposition to the Motion to Withdraw.

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**CONT... Damu Vusha and Akiba Vusha**

**Chapter 11**

**II. Findings and Conclusions**

No appearances required. This is a post-confirmation status conference. Based on its review of the Motion to Withdraw and the Status Report, and in light of the recent COVID-19 outbreak, the Court CONTINUES the status conference to **June 2, 2020, at 10:00 a.m.** The Debtors must submit a further Post-Confirmation Status Report (the "Second Status Report") by no later than fourteen days prior to the hearing. The Second Status Report should inform the Court about the status of the sale of the Property, and whether the Debtors were capable of making timely plan payments due on or after March 31, 2020. The Motion to Withdraw is CONTINUED to **June 2, 2020, at 10:00 a.m.**, to be heard concurrently with the continued Post-Confirmation Status Conference. By no later than ten days prior to the continued hearing, the Debtors and Counsel shall meet and confer to try and settle any disagreements.

The Court will prepare the order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188, no later than one hour before the hearing.

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

Damu Vusha

Represented By  
Michael Jay Berger

**Joint Debtor(s):**

Akiba Vusha

Represented By  
Michael Jay Berger

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00** HearingRE: [4249] Application for Compensation Berkeley Research Group, LLC's Fourth Interim Fee Application for Allowance and Payment of Interim Compensation and Reimbursement of Expenses for the Period September 1, 2019 through December 31, 2019 for Berkeley Research Group LLC, Financial Advisor, Period: 9/3/2019 to 12/31/2019, Fee: \$3923201.50, Expenses: \$299932.72.

Docket 4249

**Tentative Ruling:**

3/30/2020:

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

**Tentative Ruling:**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 7, 2018, the Court entered an order approving the Debtors' application to employ Berkeley Research Group, LLC ("BRG") as the Debtors' financial and restructuring advisor. *See* Doc. No. 785. BRG seeks the allowance of

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

fees and expenses for the period between September 1, 2019 and December 31, 2019 (the "Application Period"). *See* Doc. No. 4249 (the "Application"). Pursuant to the Fee Procedures Order, BRG has submitted four Monthly Applications [Doc. Nos. 3718, 3840, 3986, and 4124] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$3,923,201.50

Expenses: \$299,932.72

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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

**Debtor(s):**

Verity Health System of California,

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** HearingRE: [4250] Application for Compensation Fourth Interim Application Of Dentons US LLP, As Debtors Counsel, For Fees And Expense Reimbursement For The Period September 1, 2019 Through December 31, 2019; Declaration Of John A. Moe, II for John A Moe II, Debtor's Attorney, Period: 9/1/2019 to 12/31/2019, Fee: \$3,313,929.48, Expenses: \$61,509.47. (Moe, John) WARNING: See entry [4251] for corrective entry. Attorney to re-notice for 3/31/2020 at 10:00 a.m. Modified on 3/11/2020 (Lomeli, Lydia R.).

Docket 4250

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On September 28, 2018, the Court entered an order approving the Debtors' application to employ Dentons US LLP ("Dentons") as the Debtors' general bankruptcy counsel. *See* Doc. No. 712. Dentons seeks the allowance of fees and

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

expenses for the period between September 1, 2019 and December 31, 2019 (the "Application Period"). *See* Doc. No. 4250 (the "Application"). Pursuant to the Fee Procedures Order, Dentons has submitted four Monthly Applications [Doc. Nos. 3501, 3719, 3821, and 4124] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application and the *Declaration of Elspeth D. Paul* [Doc. No. 4364] in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$3,313,929.48

Expenses: \$61,509.47

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** HearingRE: [4243] Application for Compensation Fourth Interim Application of FTI Consulting, Inc. for Approval and Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2019 to 12/31/2019, Fee: \$574,096.75, Expenses: \$4,412.00.

Docket 4243

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 14, 2018, the Court entered an order authorizing the employment of FTI Consulting, Inc. ("FTI") as financial advisor to the Official Committee of Unsecured Creditors. *See* Doc. No. 822. FTI seeks the allowance of fees and expenses for the period between September 1, 2019 and December 31, 2019 (the "Application Period"). *See* Doc. No. 4243 (the "Application"). Pursuant to the Fee Procedures Order, FTI has submitted four Monthly Applications [Doc. Nos. 3508, 3712, 3825,

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Hearing Room 1568**

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

and 4048] with respect to work performed during the Application Period, none of which have been opposed.

Debtors filed a reservation of rights (the "Reservation of Rights") [Doc. No. 4287] to the Application. Debtors allege that the Committee, acting through professionals Milbank and FTI (the "Committee Professionals"), has spent more than \$250,000 investigating and prosecuting claims against the Prepetition Secured Creditors (as defined in the Final DIP Order [Doc. No. 409]), in violation of the cap set forth in the Final DIP Order. Debtors do not seek disallowance of the fees sought in the Application at this time, but reserve their right to seek disallowance of the Committee Professionals' fees in the future.

"Because interim awards are interlocutory and often require future adjustments, they are 'always subject to the court's reexamination and adjustment during the course of the case.'" *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 858 (9th Cir. 2004) (internal citation omitted). The ruling on the instant Application is without prejudice to the Debtors' ability to object at a later time to the fees awarded to the Committee Professionals. The Court makes no determination regarding the allegations set forth in the Reservation of Rights.

Other than the Reservation of Rights, no objections to the Application have been filed. Having reviewed the Application and the *Declaration of Michael Strollo* [Doc. No. 4244] filed in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$574,096.75

Expenses: \$4,412.00

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#7.00** HearingRE: [4242] Application for Compensation Fourth Interim Application of Milbank LLP for Approval and Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for Milbank, Tweed, Hadley & McCloy, Creditor Comm. Atty, Period: 9/1/2019 to 12/31/2019, Fee: \$2,413,896.00, Expenses: \$67,377.90.

Docket 4242

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 6, 2018, the Court entered an order authorizing the employment of Milbank LLP ("Milbank") as counsel to the Official Committee of Unsecured Creditors (the "Committee"). *See* Doc. No. 778. Milbank seeks the allowance of fees and expenses for the period between September 1, 2019 and December 31, 2019 (the "Application Period"). *See* Doc. No. 4242 (the "Application"). Pursuant to the Fee Procedures Order, Milbank has submitted four Monthly Applications [Doc. Nos. 3505,

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

3711, 3824, and 4047] with respect to work performed during the Application Period, none of which have been opposed.

Debtors filed a reservation of rights (the "Reservation of Rights") [Doc. No. 4287] to the Application. Debtors allege that the Committee, acting through professionals Milbank and FTI (the "Committee Professionals"), has spent more than \$250,000 investigating and prosecuting claims against the Prepetition Secured Creditors (as defined in the Final DIP Order [Doc. No. 409]), in violation of the cap set forth in the Final DIP Order. Debtors do not seek disallowance of the fees sought in the Application at this time, but reserve their right to seek disallowance of the Committee Professionals' fees in the future.

"Because interim awards are interlocutory and often require future adjustments, they are 'always subject to the court's reexamination and adjustment during the course of the case.'" *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 858 (9th Cir. 2004) (internal citation omitted). The ruling on the instant Application is without prejudice to the Debtors' ability to object at a later time to the fees awarded to the Committee Professionals. The Court makes no determination regarding the allegations set forth in the Reservation of Rights.

Other than the Reservation of Rights, no objections to the Application have been filed. Having reviewed the Application and the *Declaration of Michael Strollo* [Doc. No. 4244] filed in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$2,413,896.00

Expenses: \$67,377.90

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#8.00** HearingRE: [4238] Application for Compensation for Nelson Hardiman LLP, Special Counsel, Period: 9/1/2019 to 12/31/2019, Fee: \$686,697.45, Expenses: \$1,650.30. # 2 Exhibit 3 to Gill Declaration (Combined Statements) # 3 Exhibit 4 to Gill Declaration (Attorney Bios) # 4 Exhibit 5 to Gill Declaration (Expenses)) (Gill, Lawrence)

Docket 4238

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On October 30, 2018, the Court entered an order approving the Debtors' application to employ Nelson Hardiman, LLP ("Nelson Hardiman") as the Debtors' special healthcare regulatory counsel. *See* Doc. No. 713. Nelson Hardiman seeks the allowance of fees and expenses for the period between September 1, 2019 and December 31, 2019 (the "Application Period"). *See* Doc. No. 4238 (the "Application"). Pursuant to the Fee Procedures Order, Nelson Hardiman has submitted



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Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, March 31, 2020**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

four Monthly Applications [Doc. Nos. 3489, 3683, 3843, and 3989] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$686,697.45

Expenses: \$1,650.30

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#9.00** HearingRE: [4236] Application for Compensation [Fourth Interim] for Pachulski Stang Ziehl & Jones LLP, Debtor's Attorney, Period: 9/1/2019 to 12/31/2019, Fee: \$628,152.36, Expenses: \$9,621.46.

Docket 4236

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 14, 2018, the Court entered an order approving the Debtors' application to employ Pachulski Stang Ziehl & Jones, LLP ("PSZJ") as the Debtors' conflicts counsel. *See* Doc. No. 818. PSZJ seeks the allowance of fees and expenses for the period between September 1, 2019 and December 31, 2019 (the "Application Period"). *See* Doc. No. 4236 (the "Application"). Pursuant to the Fee Procedures Order, PSZJ has submitted four Monthly Applications [Doc. Nos. 3387, 3608, 3809, and 3944] with respect to work performed during the Application Period, none of

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Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, March 31, 2020**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

which have been opposed.

On March 18, 2020, the Court conducted a hearing on *St. Vincent IPA's Motion to Enforce Critical Vendor Agreement* [Doc. No. 4146] (the "Critical Vendor Motion"). St. Vincent IPA Medical Corporation (the "Group") was required to bring the Critical Vendor Motion because the Debtors, through counsel PSZJ, took the position that the Debtors were not required to pay the Group \$150,000 for services that the Group had performed in January 2020 (the "January 2020 Payment"). Debtors took this position even though the plain language of a Settlement Agreement [**Note 3**] that had been drafted by the Debtors required the January 2020 Payment. As explained in the *Final Ruling Granting Critical Vendor Motion* [Doc. No. 4295], the arguments advanced by the Debtors were wholly without merit.

Although PSZJ does not seek compensation for litigating the Critical Vendor Motion in connection with the instant Application, the Court finds it appropriate to emphasize that PSZJ did not exercise appropriate billing discretion in electing to contest the estates' liability for the January 2020 Payment. The issues raised in the Critical Vendor Motion should have been resolved without Court intervention.

**The Court highlights this issue to remind all of the estates' professionals of the importance of resolving disputes informally whenever possible. The Court looks with disfavor upon attempts to bill the estates for unnecessary litigation.**

Returning to the matter at hand, no objections to the Application have been filed. Having reviewed the Application and the *Declaration of Elspeth D. Paul* [Doc. No. 4237] in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$628,152.36

Expenses: \$9,621.46

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**  
one hour before the hearing.

**Chapter 11**

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Note 3**

Capitalized terms not defined herein have the meaning set forth in the *Final Ruling Granting Critical Vendor Motion* [Doc. No. 4295].

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#10.00** HearingRE: [4121] Application for Compensation Jeffer Mangels Butler & Mitchell LLPs Second Interim Application for Allowance and Payment of Compensation and Reimbursement of Expenses; Declaration of Thomas M. Geher for Jeffer Mangels Butler & Mitchell LLP, Special Counsel, Period: 9/1/2019 to 12/31/2019, Fee: \$540,769.50, Expenses: \$41,061.67. (Geher, Thomas)

Docket 4121

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On August 7, 2019, the Court entered an order approving the Debtors' application to employ Jeffer Mangels Butler & Mitchell LLP ("JMBM") as the Debtors' special labor and employment counsel. *See* Doc. No. 2862. JMBM seeks the allowance of fees and expenses for the period between September 1, 2019 and December 31, 2019 (the

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

"Application Period"). *See* Doc. No. 4121 (the "Application"). Pursuant to the Fee Procedures Order, JMBM has submitted four Monthly Applications [Doc. Nos. 3459, 3676, 3835, and 3974] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application and the *Declaration of Elspeth D. Paul* [Doc. No. 4125] filed in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$540,769.50

Expenses: \$41,061.67

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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**CONT... Verity Health System of California, Inc.**

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**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



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**2:19-16078 David Christopher Brady**

**Chapter 11**

**#11.00** HearingRE: [112] Motion to Borrow Notice of Motion and Motion to Approve Post-Petition Financing

Docket 112

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Financing Motion is GRANTED.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion to Approve Post-Petition Financing Pursuant to 11 U.S.C. §§ 363 and 364(c) [Doc. No. 112] (the "Financing Motion")
2. Lender's Statement in Response to Motion to Approve Post-Petition Financing Pursuant to 11 U.S.C. §§ 363 and 364(c) [Doc. No. 117]
3. As of the preparation of this tentative ruling, no other response or opposition is on file

**I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, David Christopher Brady (the "Debtor"), filed this voluntary chapter 11 case on May 24, 2019 (the "Petition Date"). The Debtor's largest asset consists of real property located at 1511 Summitridge Drive, Los Angeles, CA 90210 (the "Property"). As set forth in a November 19, 2019 appraisal, the Property has a fair market value of \$5,270,000. *See* Declaration of David Christopher Brady ("Brady Decl."), ¶ 6. The Debtor's chapter 11 filing was precipitated by construction issues arising from the Property's remodel, which led to disputes with certain contractors, subcontractors, and the Property's then-senior lienholder, Banc of California ("Banc"). The Banc's secured loan is now held by Fairview Loans IV, LLC ("Fairview"). The Debtor asserts that the Property is

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encumbered by the following liens, listed herein in order of priority:

1. Fairview holds a secured senior lien in the sum of \$2,876,621.94;
2. Kindness General Contractors, LLC ("Kindness") holds a mechanics lien in the amount of \$144,596.20 [Note 1];
3. Los Angeles County Treasurer & Tax Collector ("LACTTC") holds a claim in the amount of \$40,040.63.

*See* Brady Decl., ¶ 5. On October 2, 2019, the Court approved the Debtor's settlement agreement with three subcontractors, pursuant to which, said subcontractors released mechanics liens against the Property [Doc. No. 54].

On March 2, 2020, the Debtor filed a post-petition financing motion implicating the above-referenced interests in the Property (the "Financing Motion"). The Debtor seeks to borrow debt totaling \$2,350,000 from Marquee Funding Group, Inc. ("Marquee") pursuant to §§ 363 and 364 (the "Loan"). The Loan will be secured by a first-priority lien in favor of Marquee. The Debtor states that despite expending reasonable efforts, he was not able to obtain financing on an unsecured basis. Brady Decl., ¶ 8.

The material terms of the Loan are as follows:

Loan Amount: \$2,350,000

Term: 24 months, fixed rate

- 24 monthly interest-only payments of \$19,583.33
- Balloon payment of \$2,369,583.33 due on 4/1/2022

Interest Rate: 10%

\*All lien and property taxes must be paid in full through escrow.

*See* Financing Motion at 5-6. In addition to the Loan, the Debtor asserts that his father will gift him \$886,661.51 for the purpose of paying off all liens asserted against the Property. In sum, the Debtor requests an order authorizing him to (i) finalize the Loan in accordance with the terms set forth in Exhibit A; (ii) use monies from the Loan and his father's monetary contribution to payoff or bond all liens against the Property in full; and (iii) replace Fairview's lien against the Property with a first-priority lien in favor of Marquee. The Debtor argues that the post-petition financing requested is in the best interests of all creditors and the estate as it will enable Debtor to fully pay-off

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or bond secured claims in excess of amounts owed. Moreover, given that there is sufficient equity in the Property, the Debtor asserts that all Property lienholders will be adequately protected.

On March 16, 2020, Fairview filed a response to the Financing Motion [Doc. No. 117]. Fairview clarifies that its secured loan is in default and non-performing, and but for Debtor's representations made herein, Fairview would have filed a stay relief motion. Notwithstanding, Fairview expects to receive a full payoff from Debtor, and therefore, it does not oppose the Financing Motion. The Lender, however, reserves all available rights against the Debtor.

As of this tentative ruling, there is no substantive opposition on file.

## **II. Findings of Fact and Conclusions of Law**

Section 364 governs the obtaining of credit or incurring of debt by a debtor in possession and sets forth the incentives that may be offered to induce potential lenders to extend post-petition credit. *In re Stanton*, 248 B.R. 823, 828 (B.A.P. 9th Cir. 2000) *aff'd*, 285 F.3d 888 (9th Cir. 2002) *opinion amended and superseded on denial of reh'g*, 303 F.3d 939 (9th Cir. 2002) and *aff'd*, 303 F.3d 939 (9th Cir. 2002). Section 364 provides in relevant part:

- (c) If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—
  - (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;
  - (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
  - (3) secured by a junior lien on property of the estate that is subject to a lien.
- (d)(1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if—
  - (A) the trustee is unable to obtain such credit otherwise; and
  - (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is

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**David Christopher Brady**

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proposed to be granted.

(2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

Based on its review of the Financing Motion, the Debtor's declaration, and all other supporting documents, the Court determines that the Debtor has been unable to obtain financing on terms more favorable than those provided in the Loan, and thereby the Financing Motion is in the best interests of secured creditors and the estate. As stated in the Escrow Closing Statement, secured creditors will be adequately protected because loan proceeds, along with Debtor's father's gift contribution, will be sufficient to pay off or bond all secured claims and tax liens in full. *See* Financing Motion, Ex. A. Following payoff of property taxes and Fairview's lien through escrow, and the bonding of Kindness's disputed claim, the Debtor's secured claims will be in good standing, allowing Debtor to grant Marquee a senior lien on the Property. *See id.* Therefore, the Debtor has satisfied the adequate protection showing under § 364(d)

Moreover, the Court deems the failure of any interested party to file a substantive opposition as consent to granting the Financing Motion pursuant to Local Bankruptcy Rule 9013-1(h).

### **III. Conclusion**

Based on the foregoing, the Financing Motion is GRANTED. As set forth above, the Debtor is authorized to close the Loan, payoff or bond all secured claims, and grant Marquee a senior lien against the Property. To expedite the closing of the Loan, the order approving the Financing Motion shall take effect immediately upon entry, notwithstanding Bankruptcy Rule 6004(h).

The Debtor shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic

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appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor claims that although Kindness's lien is subject to dispute, \$200,000 from the Loan will be allocated to pay this lien. This sum is in excess of the debt amount listed in Kindness's proof of claim.

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

David Christopher Brady

Represented By  
Leslie A Cohen

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**2:19-16478 Rambutan Thai, a California corporation**

**Chapter 11**

**#12.00** Hearing  
RE: [53] Disclosure Statement Original Disclosure Statement Describing  
Original Chapter 11 Plan with Proof of Service

Docket 53

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, approval of the Disclosure Statement is DENIED. The Debtor is directed to file a first amended disclosure statement and plan by no later than **May 8, 2020** and self-calendar a hearing for **June 3, 2020 at 10:00 a.m.** Oppositions, if any, are due by **May 20, 2020**. The deadline for the Debtor to file a reply to any timely oppositions is **May 27, 2020**.

**Pleadings Filed and Reviewed**

1. Original Disclosure Statement Describing Original Chapter 11 Plan [Doc. No. 53] (the "Disclosure Statement")
2. Original Chapter 11 Plan [Doc. No. 54] (the "Plan")
3. Notice of Hearing on Disclosure Statement [Doc. No. 55] (the "Notice")
4. Amended Notice of Hearing on Disclosure Statement [Doc. No. 54] (the "Amended Notice")
5. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Debtor-in-possession, Rambutan Thai (the "Debtor"), commenced this voluntary chapter 11 case on June 1, 2019 (the "Petition Date"). The Debtor is a California corporation owned by Khwannappa Noochloor ("Noochloor"), Kulvadee Daniel ("Daniel"), and Taraporn Rattanamanee ("Rattanamanee") (collectively, the

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"Insiders"), each possessing a one-third interest in Debtor. The Debtor operates a Thai restaurant in the Silver Lake neighborhood, which conducts business as "Same Same Thai." Based on the Disclosure Statement, the Debtor's assets consist of cash flow revenue and a collection of fixed assets, consisting of furniture, equipment, and food inventory. The Debtor's chapter 11 filing was precipitated by an assessment of unpaid sales taxes of approximately \$233,000 by the California Department of Tax and Fee Administration ("CDTFA"). The Debtor seeks bankruptcy relief to restructure its outstanding tax debt, and other claims, with minimal disruption to its business operations. To assist in its reorganization, the Debtor secured the services of Jeffrey S. Shinbrot, APLC ("Debtor's Counsel"), as general bankruptcy counsel, and Grobstein Teeple, LLC ("Debtor's Accountant"), as estate accountant.

The Debtor presently seeks an order approving the adequacy of its Disclosure Statement. The Disclosure Statement details the events discussed above which led to this bankruptcy filing and provides a description of significant post-petition events. The Plan proposes the following classification scheme and treatments:

*Administrative Claims*

The Debtor anticipates that administrative fees for professionals will be approximately \$30,000, of which \$15,000 will be sought by Debtor's Counsel, and \$15,000 by Debtor's Accountant. The Debtor proposes to pay all administrative claims on the effective date of the Plan, which shall be 30 days after entry of an order approving the Plan (the "Effective Date").

*Priority Tax Claims*

The Internal Revenue Service ("IRS") and the CDTFA hold priority tax claims against the Debtor. The Debtor proposes to pay the priority portion of the IRS's claim totaling \$1,222.31 in full on the Effective, while an unsecured portion of \$14,958.49 will be compensated pursuant to the proposed treatment of the unsecured creditor class. The CDTFA's claim of \$255,549 shall be paid in four equal, periodic installments of \$63,887.35 on December 31, 2020, September 30, 2021, June 30, 2022, and March 31, 2023.

*Class 1 – General Unsecured Claims*

Class 1 consists of all allowed general unsecured claims, which the Debtor estimates hold aggregate claims in the amount of \$17,664. *See* Disclosure Statement at

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9. The Debtor proposes to pay this class approximately 42.4% of their claims, without interest, by paying each creditor in this class a one-time, pro-rated share of \$7,500, 45 days after the Effective Date. This class is impaired and entitled to vote on the Plan.

*Class 2 – Class of Interest Holders*

This class consists of the Insiders' ownership interest in the Debtor. The Plan contemplates that the Insiders will retain their equity interests in the Debtor. In return for maintaining ownership interests, the Plan calls for the Insiders to collectively make a single new value contribution of \$7,500. This class is not impaired and may not vote on the Plan.

*Means of Implementation*

Based on the figures provided in the Disclosure Statement, the Debtor's Plan will be funded from available cash totaling \$77,500, consisting of the following sources:

- i. Approximately \$62,000 cash on hand Debtor will have in its DIP account on the Effective Date.
- ii. Additional estimated funds of \$8,000 that will accumulate from projected net revenue between now and the Effective Date.
- iii. A one-time \$7,500 new value contribution from the Insiders, each Insider paying an amount proportionate to their ownership interest in the Debtor.
- iv. Future disposable income over the next 5 years. Based on cash flow projections, the Debtor anticipates having sufficient income to cover all proposed plan payments. *See* Disclosure Statement, Ex. C.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Section 1125 requires a disclosure statement to contain "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 . . . that would enable. . . a hypothetical investor of the relevant class to make an informed judgment about the plan." 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." 11 U.S.C. § 1125(a). Courts interpreting § 1125(a) have explained that the "primary purpose of a disclosure statement is to give



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the creditors the information they need to decide whether to accept the plan.” *In re Monnier Bros.*, 755 F.2d 1336, 1342 (8th Cir. 1985). “According to the legislative history, the parameters of what constitutes adequate information are intended to be flexible.” *In re Diversified Investors Fund XVII*, 91 B.R. 559, 560 (Bankr. C.D. Cal. 1988). “Adequate information will be determined by the facts and circumstances of each case.” *Oneida Motor Freight, Inc. v. United Jersey Bank*, 848 F.2d 414, 417 (3d Cir. 1988), *accord. In re Ariz. Fast Foods, Inc.*, 299 B.R. 589 (Bankr. D. Ariz. 2003).

Relevant factors for evaluating the adequacy of a disclosure statement may include: (1) the events which led to the filing of a bankruptcy petition; (2) a description of the available assets and their value; (3) the anticipated future of the company; (4) the source of information stated in the disclosure statement; (5) a disclaimer; (6) the present condition of the debtor while in Chapter 11; (7) the scheduled claims; (8) the estimated return to creditors under a Chapter 7 liquidation; (9) the accounting method utilized to produce financial information and the name of the accountants responsible for such information; (10) the future management of the debtor; (11) the Chapter 11 plan or a summary thereof; (12) the estimated administrative expenses, including attorneys' and accountants' fees; (13) the collectability of accounts receivable; (14) financial information, data, valuations or projections relevant to the creditors' decision to accept or reject the Chapter 11 plan; (15) information relevant to the risks posed to creditors under the plan; (16) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers; (17) litigation likely to arise in a nonbankruptcy context; (18) tax attributes of the debtor; and (19) the relationship of the debtor with affiliates.

*In re Metrocraft Pub. Services, Inc.*, 39 B.R. 567, 568 (Bankr. Ga. 1984). However, “[d]isclosure of all factors is not necessary in every case.” *Id.*

The Debtor’s Disclosure Statement provides inadequate information with respect to the following issues. First and foremost, the Court is cognizant that the Debtor’s Disclosure Statement was prepared prior to the current market realities attendant with

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the COVID-19 pandemic. Specifically, the Court is concerned by the financial impact reasonably expected on Debtor's restaurant operations. For that reason, the information disseminated in the Disclosure Statement with respect to Debtor's projected cash flows, present financial condition, and other information relevant to the Plan's feasibility is likely outdated and inadequately describes creditors' risk under the Plan. Without an adequate discussion on Debtor's current status, creditors will not possess the necessary information to evaluate whether or not to accept the Plan. This is important because Debtor's successful reorganization requires that a sufficient number of Class 1 creditors approve the Plan. In view of the foregoing, the Debtor shall file an amended disclosure statement and plan that addresses the Debtor's current and projected finances. To the extent that Debtor's financial condition is compromised by the COVID-19 outbreak, the Debtor is instructed to supplement Section III.E of the Disclosure Statement, which pertains to the Plan's risk factors. *See* Disclosure Statement at 11.

Additionally, the amended disclosure statement and plan must also address the following issues:

- Pursuant to Bankruptcy Rule 2002, the debtor, creditors, equity security holders, and other parties in interest must have 28 days' notice of a hearing on the approval of a disclosure statement. Here, both the Notice and the Amended Notice indicate that the Debtor failed to serve any papers on two unsecured creditors holding sizeable, although disputed, claims: Credit Collection Bureau and McCarthy, Burgess & Wolf. All other creditors holding claims identified as disputed, contingent, or unliquidated were served. *See* Doc. Nos. 55 & 57.
- The Disclosure Statement provides differing total dollar figures for allowed unsecured claims in different sections. On page 9 of the Disclosure Statement, the Debtor states that the total amount of allowed unsecured claims is \$17,664, while the unsecured claim tally contained in the "List of General Unsecured Claims" is \$18,144.56, excepting all disputed unsecured claims. *Compare* Disclosure Statement at 9 *with* Disclosure Statement, Ex. B. If this higher dollar figure is accurate, then unsecured creditors will stand to receive a lower pro-rated distribution than as indicated on the Disclosure Statement.
- The Debtor's liquidation analysis contains an inaccurate calculation of "TOTAL ASSETS" because this figure does not consider the amount of "TOTAL CURRENT ASSETS," only "TOTAL FIXED ASSETS". *See*

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Disclosure Statement at 17.

- The periodic installment the Debtor proposes to pay CDTFA (\$63,887.35) under the Disclosure Statement differs from the distribution allocated in the 5-year projection (\$58,144). *See* Disclosure Statement, Ex. C.

For the reasons set forth above, the Court cannot approve the Disclosure Statement until the Debtor cures the aforementioned issues in an amended disclosure statement and plan.

Furthermore, although the following is a plan confirmation issue, the Court notes that the Plan proposes that the Insiders will retain their ownership interest in the Debtor, while paying general unsecured creditors approximately 42% of their claims, without interest, in exchange for a single \$7,500 new value contribution. Accordingly, the Debtor should be prepared to explain how the Plan's proposal—permitting the Insiders to retain an interest in the reorganized Debtor on account of their junior interests—satisfies the minimum requirements for new value contributions set forth in *Bank of America v. 203 North LaSalle Street Partnership*, 526 U.S. 434 (1999), required for plan confirmation.

### **III. Conclusion**

Based on the foregoing, approval of the Disclosure Statement is DENIED. The Debtor is directed to file a first amended disclosure statement and plan by no later than **May 8, 2020** and self-calendar a hearing for **June 3, 2020 at 10:00 a.m.** Oppositions, if any, are due by **May 20, 2020**. The deadline for the Debtor to file a reply to any timely filed oppositions is **May 27, 2020**.

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the

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hearing.

**Chapter 11**

**Party Information**

**Debtor(s):**

Rambutan Thai, a California

Represented By  
Jeffrey S Shinbrot

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**2:18-11284 Damu Vusha and Akiba Vusha**

**Chapter 11**

**#13.00** Post-Confirmation Status Conference

fr. 11-19-19; 3-18-20

Docket 156

**Tentative Ruling:**

3/30/2020

See Cal. No. 3., incorporated in full by reference.

**Party Information**

**Debtor(s):**

Damu Vusha

Represented By  
Michael Jay Berger

**Joint Debtor(s):**

Akiba Vusha

Represented By  
Michael Jay Berger

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11:00 AM

**2:19-12915 John F Gallardo and Irene S Gallardo**

**Chapter 7**

**#100.00** HearingRE: [36] Motion to Approve Compromise Under Rule 9019 and Notice of Chapter 7 Trustee's Motion for Order: 1) Approving Compromise Between the Bankruptcy Estate, the Debtors, Mario Gallardo and Mary Gallardo, and 2) Granting Related Relief to Implement the Settlement, Including the Sale of Real Property of the Estate, Memorandum of Points and Authorities and Declaration of Carolyn A. Dye in Support with Proof of Service - Hearing: March 31, 2020 at 11:00 a.m. (Iskander, Brandon)

Docket 36

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Settlement Agreement is APPROVED and the Motion is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Chapter 7 Trustee's Motion for Order: (1) Approving Compromise Under Rule 9019 Between the Bankruptcy Estate, the Debtors, and Mario Gallardo and Mary Gallardo, and (2) Granting Related Relief to Implement the Settlement, Including the Sale of Real Property of the Estate [Doc. No. 36] (the "Motion")
  - a) Notice of [Motion] [Doc. No. 37]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

The Chapter 7 Trustee (the "Trustee") seeks approval of a *Settlement Agreement* (the "Settlement Agreement") among the Trustee, the Debtors, and Mario Gallardo and Mary Gallardo (the "Gallardos"). No opposition to the Motion is on file.

John F. Gallardo and Irene S. Gallardo (the "Debtors") filed a voluntary Chapter 7

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petition on March 18, 2019 (the "Petition Date"). The claims bar date was July 1, 2019. Excluding a claim asserted by the Gallardos—which will be withdrawn pursuant to the Settlement Agreement—general unsecured claims total \$94,555.29.

Debtors scheduled an ownership interest in real property located at 22483 Mountain View Road, Moreno Valley, CA 92557 (the "Property"). Prior to the Petition Date, the Property was the subject of an action commenced by the Gallardos against the Debtors in the Riverside County Superior Court (the "State Court Action"). In the State Court Action, the Gallardos alleged that co-Debtor John F. Gallardo purchased the Property with their funds and agreed that the Property would be theirs. The Gallardos sought a judgment placing the Property in a constructive trust for their benefit.

Subsequent to the Petition Date, the Trustee commenced an action against the Gallardos to quiet title to the Property (the "Adversary Proceeding"). The Trustee alleged that Gallardos could not overcome the presumption that the estate, as the holder of legal title to the Property, was also the Property's equitable owner.

The material terms of the Settlement Agreement are as follows:

- 1) The Gallardos shall purchase the estate's interest in the Property, free and clear of all existing liens, claims, and encumbrances, for an amount necessary to satisfy all existing liens, claims, and encumbrances, plus \$100,000 (the "Settlement Amount"). As of February 19, 2020, the total Settlement Amount is estimated to be \$335,000.
- 2) The following shall be paid from the Settlement Amount:
  - a) The consensual lien of Carrington Mortgage Services, LLC.
  - b) Outstanding real estate taxes.
  - c) All other costs of sale.
- 3) The Gallardos shall be deemed to have withdrawn their proof of claim upon entry of an order approving the Settlement Agreement.
- 4) The Gallardos shall dismiss the State Court Action with prejudice on the effective date of the Settlement Agreement.
- 5) If the Gallardos do not close the sale within ninety days after entry of an order approving the Settlement Agreement, the Trustee shall immediately market the Property. If the Trustee sells the Property, the Gallardos shall receive \$50,000 from the net sale proceeds less administrative expenses incurred by the Trustee.
- 6) The Debtors agree that they shall have no claim of exemption in the

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## **II. Findings and Conclusions**

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Settlement Agreement is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

### *Probability of Success on the Merits*

This factor weighs in favor of approving the Settlement Agreement. The Adversary Proceeding is fact-intensive and would be expensive to litigate. The Gallardos contend that they contributed funds to the purchase of the Property and that they had an oral agreement with co-Debtor John Gallardo that the Property would be theirs. Co-Debtor John Gallardo denies that assertion.

The uncertainty regarding the outcome of continued prosecution of the Adversary Proceeding strongly supports approval of the Settlement Agreement. *See In re Aloha Racing Found., Inc.*, 257 B.R. 83, 88 (Bankr. N.D. Ala. 2000) (internal citations omitted) ("The burden is not on ... the Trustee to conclusively establish that he would be successful at a trial on these issues. That would defeat the purpose of settlement and would eliminate any cost savings from the settlement. 'All that he must do is establish to the reasonable satisfaction of [this Court] that, all things considered, it is prudent to eliminate the risks of litigation to achieve specific certainty though it might be considerably less (or more) than were the case fought to the bitter end.'").



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*Complexity of the Litigation*

This factor weighs in favor of approving the Settlement Agreement. As discussed above, the Adversary Proceeding involves disputed factual issues that would be expensive to litigate.

The possibility that additional litigation might yield a result nominally more favorable to the estate cannot be ruled out. Yet any such result obtained through litigation would be a pyrrhic victory from the perspective of the estate and creditors, because the additional administrative costs associated with the litigation would on net leave the estate worse off.

*Paramount Interests of Creditors*

This factor weighs in favor of approving the Settlement Agreement. If the Gallardos close upon the sale the Settlement Agreement will yield net proceeds to the estate of \$100,000. Even if the Gallardos do not close the sale, the Settlement Agreement will resolve dispute over the estate's interest in the Property, and the estate will realize the proceeds of sale of the Property to a third party less the \$50,000 payable to the Gallardos. In sum, the Settlement Agreement will yield funds for the estate while at the same time avoiding costly litigation. In addition, no creditors have objected to approval of the Settlement Agreement.

*Difficulties To Be Encountered in the Manner of Collection*

This factor weighs in favor of approving the Settlement Agreement. Absent the Settlement Agreement, the estate would not receive funds from liquidation of the Property unless and until the Trustee litigated the Adversary Proceeding to a successful conclusion, obtained turnover of the Property, removed the Gallardos from the Property, and sold the Property to a third party. The Settlement Agreement avoids the delay and expense associated with accomplishing these tasks.

**III. Conclusion**

Based upon the foregoing, the Motion is GRANTED in its entirety. Because no opposition to the Motion is on file, the order approving the Motion shall take effect immediately upon entry, notwithstanding Bankruptcy Rule 6004(h). Within seven days of the hearing, the Trustee shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you

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intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

John F Gallardo

Represented By  
Christopher J Langley

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

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**2:19-16549 Lynn M. Vargas**

**Chapter 11**

**#101.00** Hearing  
RE: [70] Application for Compensation Gonzalez & Gonzalez Law, P.C.s First Interim Application for Fees and Costs; Declaration of Rosendo Gonzalez in Support Thereof for Rosendo Gonzalez, Debtor's Attorney, Period: 6/6/2019 to 1/7/2020, Fee: \$33,620.00, Expenses: \$3,579.86.

fr. 2-4-20

Docket 70

**Tentative Ruling:**

3/30/2020

**Notice:** OK

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Fee Applications are GRANTED as follows:

- (1) The Gonzalez Application is GRANTED in the total amount of \$36,999.86 (\$37,199.86 less the reduction of \$200) for the subject billing period. Gonzalez is authorized to apply monies previously received from the Debtor as retainer to the amount awarded, provided that any surplus shall be returned to the Debtor.
- (2) The DLP Application is GRANTED in the total amount of \$18,615.50 (\$21,065.50 less the reduction of \$2,450) for the subject billing period. DLP is authorized to apply monies previously received from the Debtor as retainer to the amount awarded, provided that any surplus shall be returned to the Debtor.

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**Pleadings Filed and Reviewed:**

- 1) Gonzalez & Gonzalez, P.C.'s First Interim Application for Fees and Costs (the "Gonzalez Application") [Doc. No. 70]
  - a) Notice of Hearing [Doc. No. 72]
  - b) Debtor's Objection to First Interim Fee Application of Gonzalez & Gonzalez, PC (the "Gonzalez Opposition") [Doc. No. 76]
  - c) Gonzalez & Gonzalez, P.C.'s Response to Debtor's Objection to Gonzalez & Gonzalez Law, P.C.'s First Interim Application for Fees and Costs [Doc. No. 89] (the "Gonzalez Reply")
- 2) Leonard de los Prados' Application for Payment of: Interim fees and/or Expenses (the "DLP Application") [Doc. No. 71]
  - a) Debtor's Objection to First Interim Fee Application of Leonard De Los Prados, CPA, [Doc. No. 77] (the "DLP Opposition")
  - b) Leonard de los Prados, CPA's Response to Debtor's Objection to Leonard de los Prados, CPA's First Interim Application for Fees and Costs [Doc. No. 97] (the "DLP Reply")
- 3) Notice of Professionals for Filing Interim Applications for Fees and Costs [Doc. No. 67]
- 4) Debtor's Application to Employ David Pannell of Keller Williams Realty as Real Estate Broker [Doc. No. 52] (the "Pannell Application")

**I. Facts and Summary of Pleadings**

Gonzalez & Gonzalez Law, P.C. ("Gonzalez") applies for allowance of fees in the amount of \$33,620 and costs in the amount of \$3,579.86 (the "Gonzalez Application"). Rosendo Gonzalez ("R. Gonzalez") is the principal of Gonzalez, which served as the Debtor's general bankruptcy counsel until January 16, 2020. On May 16, 2019, Gonzalez received a retainer totaling \$35,000, which it previously applied to fees and costs of \$3,189.30. Gonzalez requests permission to deduct approved fees and costs from the remaining retainer amount. The Gonzalez Application covers a billing period from June 6, 2019 through January 7, 2020. In addition, Leonard De Los Prados, CPA ("DLP") applies for allowance of fees in the amount of \$21,065.50 and costs in the amount of \$78 (the "DLP Application," together with the Gonzalez Application, the "Fee Applications"). DLP requests permission to apply a \$5,000

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retainer against approved fees and costs.

On August 6, 2019, the Court entered orders approving the employment applications of Gonzalez and DLP as the Debtor's general bankruptcy counsel and accountant, respectively, as of June 6, 2019 [Doc. Nos. 33, 34]. On January 16, 2020, the Debtor filed an official form to substitute Gonzalez for the Law Offices of Michael Jay Berger as attorney of record [Doc. No. 75]. The Debtor, through her new bankruptcy counsel, opposes the Fee Applications [Doc. Nos. 76, 77].

**A. Background**

Lynn M. Vargas (the "Debtor"), filed a voluntary chapter 11 petition on June 4, 2019 (the "Petition Date") [Doc. No. 1]. The Debtor is an individual who owns five real estate parcels and operates a caregiver home business for adults with special needs. As set forth in her schedules [Doc. No. 1], the Debtor possesses an ownership interest in the following real properties:

- 1) 13226 Addington Street, Whittier, California 90602 (the "Addington Property"), the Debtor's claimed residence, with a market value of \$527,557, which is not subject to any secured claims;
- 2) 13649 Russell Street, Whittier, California 90602 (the "Russell Property"), with a market value of \$935,504, which is not subject to any secured claims;
- 3) 12322 Abana Street, Cerritos, California 90703 (the "Abana Property"), with a market value of \$638,665, and subject to a secured claim held by Wells Fargo in the approximate amount of \$432,596.28;
- 4) an unimproved land parcel in Hilo, Hawaii of unknown value; and
- 5) a burial plot in Rose Hills Memorial Park with a market value of \$5,000.

The Gonzalez Application states that the Debtor filed for chapter 11 relief to restructure outstanding debts by selling the Addington Property. *See* Gonzalez Application at 3, ¶ J; *see also* Debtor's Application to Employ David Pannell of Keller Williams Realty as Real Estate Broker at 2-3 [Doc. No. 52] (the "Pannell Application"). To market and sell the Addington Property, Gonzalez asserts that the Debtor employed DLP and David Pannell ("Pannell"), a real estate broker. Gonzalez

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Application at 3-4, ¶¶ K, M. The Debtor's most significant debt consists of approximately \$513,515.60 in disputed damages arising from a state court lawsuit filed by Maria "Amanti", a former employee of the Debtor, for breach of wage-and-hour regulations and other California Labor Code violations (the "Amante Action") [Note 1]. See Gonzalez Application at 3, 12; see also Declaration of Lynn Vargas in Support of Gonzalez Opposition, ¶ 2. As summarized below, the Debtor strongly disputes that she intended to seek bankruptcy relief as represented by Gonzalez.

The subject billing period includes the following events, *inter alia*: (1) responses to inquiries from the Office of the United States Trustee ("USTO") in relation to a motion to dismiss or convert; (2) resolution of such matter, which resulted in the USTO's voluntary withdrawal of the motion; (3) amendment of Debtor's commencement documents pursuant to an agreement with the USTO's office; (4) attempted settlement of the Amante Action; (5) the prospective retention of a special bankruptcy counsel to litigate the Amante Action; (6) retention of a real estate broker to market and sell the Addington Property; (7) preparation of a motion for an order to set a claims bar date; (8) preparation for a voluntary dismissal motion, which was not filed; (9) preparation of employment applications for two real estate brokers (one of which was not filed), general bankruptcy counsel, counsel's accountant, and a special bankruptcy counsel (not filed); (10) review of Debtor's financial statements; and (11) preparation and filing of monthly operating reports ("MORs") from June to October 2019. See generally Gonzalez Application, Ex. 2; DLP Application, Ex. 1.

Gonzalez states that an earlier version of the Gonzalez Application was delivered to the Debtor for approval, but Gonzalez did not receive any response. Declaration of Rosendo Gonzalez ("Gonzalez Decl."), ¶ 12.

**B. The Gonzalez Opposition**

On January 21, 2020, the Debtor filed the Gonzalez Opposition [Doc. No. 76]. The Debtor opposes the Gonzalez Application on the grounds that (1) Gonzalez pressured her to unnecessarily file this bankruptcy petition, (2) Gonzalez's chosen strategy provided no benefit to the estate, and (3) the fees sought in the Gonzalez Application are unreasonably high given the lack of progress in the case.

The principal argument advanced by the Gonzalez Opposition is that Gonzalez erred in advising the Debtor to file a chapter 11 petition to pay damages and other

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costs resulting from the Amante Action. The Debtor contends she consistently opposed bankruptcy because she did not want to jeopardize her ample equity in various real properties. Although she maintains that she repeatedly told Gonzalez that she did not want to continue the case, Gonzalez "convinced" or "pressured" her otherwise. After the petition date, the Debtor claims she instructed Gonzalez to dismiss the case. Debtor argues that Gonzalez's actions were not in her best interest as a debtor-in-possession because Gonzalez mismanaged this chapter 11 case as a liquidation. Accordingly, instead of litigating the Amante Action or objecting to Amante's proof of claim, the Debtor remarks that Gonzalez focused on selling the Addington Property to pay Amante's unliquidated, disputed claim, which remains to be adjudicated in state court. Debtor submits that she relied on Gonzalez's "wrong [bankruptcy] advice" and opposes the fees sought in the Gonzalez Application in full. The Debtor asserts that she secured the services of the Law Offices of Michael Jay Berger to settle the Amante Action and eventually dismiss this case.

Additionally, the Debtor objects to the following fee items as excessively charged:

1. *Business Operations* (\$735) and *Claims Administration* (\$1,080) fees as duplicative;
2. Certain fees billed under the *Amante Litigation* (\$3,735) as unreasonably excessive and/or duplicative;
3. *Case Administration* fees (\$22,225), \$2,205, billed for work expended on a motion to dismiss, should be disallowed outright because Gonzalez never filed such motion, and the balance of fees requested in this category are unreasonably excessive;
4. *Fee/Employment Applications* fees (\$3,245) because certain employment applications were never filed;
5. All other fee categories not specifically mentioned are fully opposed as Debtor contends this case should never have been filed.

See Gonzalez Opposition at 4-8.

*The Gonzalez Reply*

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On February 19, 2020, Gonzalez filed a response to the Gonzalez Opposition (the "Gonzalez Reply"). In response, Gonzalez proffers a detailed narrative of events leading up to the commencement of this case, supporting declarations, and a series of exhibits, which the Court summarizes as set forth below. Gonzalez submits that the record controverts Debtor's purported disapproval of her bankruptcy case, and it instead demonstrates that Gonzalez acted diligently to reorganize Debtor's outstanding debts, notwithstanding her failure to follow Gonzalez's advice. On June 4, 2019, at the time this case was filed, the Debtor was a defendant in two separate state court actions—the Amante Action, and another suit filed by Amante against the Debtor and Debtor's son for the fraudulent conveyance of the Addington Property, the Abana Property, and the Russell Property (the "Fraudulent Transfer Action") (collectively, the "State Court Actions"). From December 2, 2018 to October 2, 2019, the Debtor retained the Bonomi Law Group, LLP ("Bonomi") to oversee her defense in the Amante Action. Declaration of Christy W. Granieri (the "Granieri Decl."), ¶¶ 4, 15. According to Christy W. Granieri ("Granieri"), a member of Bonomi and Debtor's counsel in the Amante Action, Bonomi recommended Gonzalez to the Debtor because of the Debtor's unwillingness to prosecute or settle the Amante Action. *Id.* at ¶ 8. Bonomi believed that working with Gonzalez, a known bankruptcy firm, was in the Debtor's best interest because obtaining bankruptcy relief would stay the State Court Actions and facilitate negotiations with Amante. *Id.* Having interacted with both Gonzalez and the Debtor, Granieri asserts that the Debtor never expressed reservations about pursuing bankruptcy protections, nor did Granieri ever witness Gonzalez "pressure" Debtor to file for bankruptcy. *Id.* at ¶¶ 10-11.

The declaration of R. Gonzalez (the "Gonzalez Declaration") substantially mirrors the assertions in the Granieri Declaration, further providing a recount of the significant difficulties encountered in the Debtor's representation. The Gonzalez Declaration asserts that the Debtor failed to appear at the first creditors' meeting, did not allow the USTO to inspect her business, and did not clearly communicate legal objectives. *See* Gonzalez Decl., ¶¶ 17-20. Upon the Debtor's request, Gonzalez states that a motion to dismiss the bankruptcy case was prepared on or about July 29, 2019. However, according to Gonzalez, the Debtor changed her mind, opting to attend the creditors' meeting and permitting the UST representatives to survey business premises. Consequently, the dismissal motion was never filed. *Id.* at ¶ 20. The Gonzalez Reply states that Debtor again stated her desire to dismiss the case via a December 16, 2019 e-mail. *Id.* at ¶ 25. The Debtor's e-mail came days after an individual claiming to be



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Debtor's friend informed Gonzalez through e-mail that Debtor did not want to continue her case. Gonzalez responded to Debtor's request in a December 17, 2019 email. *See* Gonzalez Decl., Ex. 8.

Finally, the Gonzalez defends all requested fees and costs, arguing that Debtor's objections against supposedly excessive or unearned charges ignore the following:

- Gonzalez represented Debtor in protracted, unsuccessful negotiations with Amante;
- Debtor continuously failed to cooperate with Gonzalez or other estate professionals;
- Debtor dismissed Bonomi as state court counsel, and was unsuccessful in finding another attorney;
- Debtor's chosen replacement for Bonomi was not willing to comply with the USTO's guidelines, and therefore, declined to represent Debtor in the Amante Action; and
- Based on Debtor's stated litigation objectives, Gonzalez prepared other pleadings that were not ultimately filed because the Debtor later rejected or failed to execute such pleadings.

**C. The DLP Opposition**

On January 21, 2020, the Debtor filed the DLP Opposition [Doc. No. 77], objecting to the total fees sought by DLP as excessive and unreasonably high. The Debtor asserts that DLP's services consisted of preparing five (5) MORs and "some basic financial reports." DLP Opposition at 2. In support of the DLP Opposition, the Debtor supplied the declaration of Jennifer Min Liu ("Liu"), a certified public accountant with accounting experience in at least eight (8) recent bankruptcy cases. *See* Declaration of Jennifer Min Liu ("Liu Decl."), ¶¶ 1-3. Having reviewed Debtor's MORs, Liu concludes that the fees requested for preparing and filing the MORs are excessive. *Id.*, ¶ 5. Accordingly, DLP expended a total of 109.5 hours over six months to prepare 5 MORs, averaging 18.25 hours per MOR. Liu opines that the hours worked in connection to the MORs are unreasonable because, among other reasons,

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Debtor's business has no accounts receivable, there are minimal accounts payable each month, Debtor only employs two individuals, and Debtor's bank accounts merely indicate approximately 20 to 34 transactions each month. *Id.*, ¶¶ 6-9. Further, Liu believes that the time spent recording transactions is perplexing because the Debtor's business utilizes a simple accounting method and financial information could have been transferred to MORs using the QuickBooks application. *Id.*, ¶¶ 5-6. Liu calculates that preparation of MORs should take approximately 4-5 hours each month, and cost the Debtor no more than 30% of fees sought in the DLP Application, or approximately \$6,319.65. *Id.*, ¶ 9.

*The DLP Reply*

On March 17, 2020, DLP submitted a response to the DLP Opposition (the "DLP Reply"). First, DLP counters that the fees incurred in relation to the five MORs are appropriate as such services were part of the scope of work the Debtor accepted and this Court approved. *See* Declaration of Leonard de Los Prados ("DLP Decl."), Exs. 1, 2. Pursuant to his engagement letter with the Debtor, DLP also performed additional accounting tasks that included preparation of a Seven-Day Report and a Ninety-Day cash flow projection, which necessitated amendments due to inaccurate or delayed information proffered by the Debtor. DLP Reply at 3, 4. Second, DLP asserts that the amount of fees charged is reasonable on account of Debtor's disorganized, incomplete, and inaccurate recordkeeping, her unreliable means of communication, and her failure to comply with either DLP's or Gonzalez's instructions. For example, DLP relates that the Debtor's business records consisted of incomplete hand-written journal entries, which had to be individually reconciled with financial records before being manually entered into the MOR forms. DLP states that this process was time consuming because most of his communications with Debtor occurred via e-mail, and because the Debtor opened up non-DIP bank accounts post-petition without consulting estate professionals. A full account of DLP's working experience with the Debtor and her recordkeeping habits may be found on pages 4 through 10 of the DLP Reply. Finally, DLP contends that based on the foregoing, the opinions proffered by Liu distort the efforts that DLP actually expended conforming Debtor's poorly maintained financial records to mandatory reporting forms. *See* DLP Decl., ¶¶ 17-20.

**II. Findings of Fact and Conclusions of Law**

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**A. The Gonzalez Application**

Section 330(a)(1) allows the Court to award "reasonable compensation for actual, necessary services rendered" by a professional. In determining the amount of compensation to award, the Court considers:

The nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3).

"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." *Sheridan & Kotel, P.C. v. Bergen Brunswig Drug Co. (In re Mednet)*, 251 B.R. 103, 108 (B.A.P. 9th Cir. 2000).

Here, the Debtor objects to fees and costs requested for services performed by Gonzalez in the sum of \$37,199.86. In addition to other arguments, the Debtor

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emphasizes that Gonzalez's fees should be fully disallowed because she was pressured into unnecessarily filing and prosecuting this case by R. Gonzalez, even after Debtor asked Gonzalez to dismiss it. Therefore, she argues, all, or mostly all, of the fees incurred in relation to Gonzalez's services offered little or no benefit to the Debtor. Gonzalez counters that Debtor's allegations are controverted by the record, which includes the declarations of R. Gonzalez and Granieri and numerous exhibits attached to the Gonzalez Reply. Having reviewed this vast evidentiary record, the Court is not persuaded by the Debtor's argument.

The Debtor's allegation that she resisted and actively opposed bankruptcy is inconsistent with her demonstrated conduct, statements, and representations. First, the Court finds the declarations of R. Gonzalez and Granieri to be highly credible. The Debtor's own assertions, submitted under penalty of perjury, are consistent with the claims made by R. Gonzalez and Granieri that (a) the Debtor approached Gonzalez about the prospect of filing for bankruptcy, acting on the advice of Granieri, and (b) that the Debtor decided to file for bankruptcy and hire Gonzalez as bankruptcy counsel. *See* Doc. No. 1 [Debtor's petition]; *see also* Doc. No. 17 [Gonzalez's employment application] at 6 (the Debtor executed Gonzalez's employment application on July 2, 2019). Moreover, the scope of Gonzalez's services was listed in the engagement letter Debtor countersigned on or about April 18, 2019. *See* Doc. No. 17, Ex. 1. Although Gonzalez admits that the Debtor requested to have her case dismissed on or about July 29, 2019, the Court finds that the Debtor changed her mind and opted to proceed with her case thereafter. As a result, a motion to dismiss prepared by Gonzalez did not need to be filed. The statements supplied by R. Gonzalez on this issue are bolstered by Debtor's signed approval of (1) the amended bankruptcy petition on July 29, (2) amended Schedules A/B and D on August 8, and (3) the Pannell Application on September 17, 2019. Even if the Court were to accept that Debtor was dissatisfied with Gonzalez's services, it is mystifying that the Debtor waited until January 16, 2020 to file a substitution of attorney form. Because Gonzalez's account is consistent with the record, and with the declarations provided by Granieri and DLP, the Court places limited probative value on Debtor's assertion that she was pressured into bankruptcy.

Furthermore, the Court determines that the legal services for which Gonzalez seeks compensation were "reasonably likely" to benefit the estate at the time the services were rendered." *In re Mednet*, 251 B.R. at 108. Gonzalez's services which furthered the Debtor's reorganization included, *inter alia*, the opposition and resolution of the

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USTO's motion to dismiss or convert, drawn-out negotiations to settle the Amante Action, preparation of numerous professional employment applications, and Debtor's representation at the meeting of the creditors. The Court further determines that it is appropriate for Gonzalez to be paid for work on the voluntary dismissal motion—which was not filed because Debtor decided to proceed with her bankruptcy—and the employment application of David Nusz ("Nusz") as Debtor's special litigation counsel—which was not filed because Nusz declined to represent Debtor. The Court understands that these documents were not filed due to circumstances outside of Gonzalez's control; however, because Gonzalez prepared these documents in furtherance of Debtor's reorganization, these services were reasonably beneficial to the estate *when* they were rendered. *See In re Mednet*, 251 B.R. at 108. Gonzalez's total fees are also reasonable in light that the Debtor unpredictably changed litigation objectives, failed to supply requested documents or otherwise comply with Gonzalez's directions. Notwithstanding, the Court determines that it is appropriate to disallow Gonzalez's fees, in the sum of \$200, incurred in connection with the employment application of Jamela Santos as real estate broker (the "Santos Application") [Note 2]. Gonzalez has not made a sufficient showing that the Santos Application was of material benefit to the estate, especially given that Pannell was later retained as the Debtor's real estate broker. Moreover, unlike the preparation of the dismissal motion, which was rendered unnecessary by the Debtor's subsequent actions to proceed with bankruptcy, Gonzalez has not established that the Santos Application was not filed because of the Debtor's instructions.

Based on the foregoing, the Court finds that the majority of fees and costs requested by Gonzalez were reasonably incurred for the estate's benefit, and the Gonzalez Opposition is **OVERRULED** as indicated above. [Note 3]

**B. The DLP Application**

The Debtor objects to the DLP Application on the grounds that DLP's fees of \$21,065.50 are excessive and unreasonable. These services consisted of, *inter alia*, gathering and inspecting Debtor's financial records, and using such information to open DIP bank accounts and prepare five MORs, a Seven-Day Report, and a Ninety-Day cash flow projection. DLP's scope of work and hourly fee was communicated to the Debtor in a retention agreement dated April 26, 2019, which Debtor executed and authorized. *See* DLP Reply, Ex. 1. DLP claims that he spent "unusual amounts of time and effort" on this case due to Debtor's unconventional recordkeeping, her failure to

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Lynn M. Vargas**

**Chapter 11**

timely supply documentation, and the challenges he faced in communicating with the Debtor. The Court finds that the disputed fees arising from DLP's services were a direct result of Debtor's noncompliance, dilatory conduct, or inability to maintain an accurate accounting system. For example, due to the poor state of Debtor's recordkeeping, DLP was required to incur considerable effort deciphering unexplained cash withdrawals and reconciling Debtor's transactions with the MORs. *See* DLP Reply, Ex. 8 (attaching a handwritten transaction log of Debtor's combined personal and business expenses). DLP also had to provide additional services to reconcile transactions conducted through two non-DIP bank accounts Debtor opened in August and July 2019, unbeknownst to DLP and Gonzalez. The Court is particularly persuaded by an August 5, 2019 e-mail between DLP and a USTO representative, wherein DLP raised issues with Debtor's financial records. *See* DLP Reply, Ex. 6. Moreover, the Court is unpersuaded by the Liu Declaration, which fails to address the substantial issues generated by Debtor's poorly maintained records.

Based on the foregoing, the Court approves DLP's requested fees, to the extent such fees were incurred for services performed on or after the June 6, 2019 effectiveness of DLP's employment. Accordingly, the Court disallows fees in the sum of \$2,450, which correspond to services provided by DLP before his effective date of employment [Note 3]. The remainder of the DLP Opposition is OVERRULED as indicated above.

### **III. Conclusion**

Based on the foregoing, the Fee Applications are GRANTED as follows:

- (1) The Gonzalez Application is GRANTED in the total amount of \$36,999.86 (\$37,199.86 less the reduction of \$200) for the subject billing period. Gonzalez is authorized to apply monies previously received from the Debtor as retainer to the awarded amount, provided that any surplus be returned to the Debtor.
- (2) The DLP Application is GRANTED in the total amount of \$18,615.50 (\$21,065.50 less the reduction of \$2,450) for the subject billing period. DLP is authorized to apply monies previously received from the Debtor as retainer to the awarded amount, provided that any surplus be returned to the Debtor.

The Fee Applicants, respectively, shall lodge conforming orders within seven (7)

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Hearing Room 1568**

11:00 AM

**CONT...**      **Lynn M. Vargas**  
days of the hearing.

**Chapter 11**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Court believes the spelling of "Amanti" is in error and that the correct name of Debtor's former employee is Maria Amante as indicated in Debtor's commencement documents and in Amante's proof of claim.

**Note 2:** All other fees Gonzalez charged in connection with the employment of a real estate broker were either waived or incurred in relation to Pannell's services. *See* Gonzalez Application, Ex. 2.

**Note 3:** Local Bankruptcy Rule ("LBR") 2016-1 sets forth the requirements for compensation for professional persons. More specifically, under LBR 2016-1(a)(1)(J), the application for compensation generally must include "A separately filed declaration from the client indicating that the client has reviewed the fee application and has no objection to it . . . ." The Debtor contends that she did not approve the Gonzalez Application. However, R. Gonzalez asserts that he delivered an earlier version of the application to the Debtor, as well as the DLP Application. Gonzalez Decl., ¶ 12. The Court finds that Gonzalez's efforts to obtain approval of the Fee Applications, as evidenced by the Gonzalez Declaration, meet the requirements prescribed by LBR 2016-1(J).

**Note 4:** As set forth in DLP's billing entries, from May 9, 2019 to June 5, 2019, DLP expended 12.25 hours at an hourly rate of \$200, totaling \$2,450. The Court further notes that several of DLP's time entries were not tracked in one-tenth of an hour increments (.1) as required by LBR 2016-1(a)(1)(E)(iii). DLP is cautioned that failure to comply with LBR 2016-1(a)(1)(E)(iii) in the future may result in the Court striking noncompliant time entries in their entirety.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

---

11:00 AM

**CONT... Lynn M. Vargas**

**Chapter 11**

**Debtor(s):**

Lynn M. Vargas

Represented By  
Rosendo Gonzalez  
Hatty K Yip



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, March 31, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-16549 Lynn M. Vargas**

**Chapter 11**

**#102.00** Hearing

RE: [71] Application for Compensation Leonard De Los Prados. CPA First Interim Application for Fees and Costs for Leonard De Los Prados, Accountant, Period: 6/4/2019 to 12/30/2019, Fee: \$21,065.50, Expenses: \$78.00.

fr. 2-4-20

Docket 71

**Tentative Ruling:**

3/30/2020

See Cal. No. 101, incorporated in full by reference.

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

Lynn M. Vargas

Represented By  
Rosendo Gonzalez  
Hatty K Yip

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01110      Nguyen dba Sam Bullion & Coin v. Zendedel

**#1.00**      Hearing re [26] Examination re Enforcement of Judgment of Judgment Debtor  
BAHRAM ZENDEDEL aka ROBERT ZENDEDEL

fr. 12-3-19; 2-19-20

Docket      0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-17-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Sam Thuy Nguyen dba Sam Bullion

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24831 Carmen Johana Cardona Mejia**

**Chapter 7**

**#2.00** Hearing re [10] *Motion for Order Authorizing Debtor Examination and Production of Documents Under Bankruptcy Rule 2004*

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-15-2020 AT 11:00 A.M.**

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

**Debtor(s):**

Carmen Johana Cardona Mejia

Represented By  
Juan Castillo-Onofre

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, April 1, 2020

Hearing Room 1568

10:00 AM

2:19-24833 Marvin Ruiz Davila

Chapter 7

#3.00 Hearing re [11] *Motion for Order Authorizing Debtor Examination and Production of Documents Under Bankruptcy Rule 2004*

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 4-15-2020 AT 11:00 A.M.

**Party Information**

**Debtor(s):**

Marvin Ruiz Davila

Represented By  
Juan Castillo-Onofre

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11781 Marquis Campbell**

**Chapter 7**

**#4.00** Status HearingRE: [1] Chapter 7 Involuntary Petition Against an Individual. Benjamin Farquhar, Elisa Ritter . (Tom, Bock) Additional attachment(s) added on 2/19/2020 (Tom, Bock).

Docket 1

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

**Debtor(s):**

Marquis Campbell

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** HearingRE: [4223] Motion and Notice of Debtors' Motion for Entry of an Order Authorizing (1) Return of Funds Held in a 26 U.S.C. § 457(B) "Rabbi" Trust to the Debtors' Estates, (2) Transfer of Postpetition Amounts Made by Two Employees (Eleanor Ramirez and Derek Drake) that were Improvidently Made; and Declaration Of Steven C. Sharrer in Support

Docket 4223

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.10** Hearing re [4365] Debtors' Emergency Motion For The Entry Of: (I) An Order (1) Approving Form Of Asset Purchase Agreement; (2) Approving Auction Sale Format And Bidding Procedures; (3) Approving Stalking Horse Bidder And Bid Protections; (4) Approving Form Of Notice To Be Provided To Interested Parties; (5) Scheduling A Court Hearing To Consider Approval Of The Sale To The Highest And Best Bidder; And (6) Approving Procedures Related To The Assumption Of Certain Executory Contracts And Unexpired Leases; And (II) An Order Authorizing The Sale Of Property Free And Clear Of All Claims, Liens And Encumbrances

Docket 0

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10264 450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

**#6.00** HearingRE: [86] Motion to Use Cash Collateral -- Debtor's Second Motion For Order Authorizing Use Of Cash Collateral From April 5, 2020 Through And Including July 4, 2020; Memorandum Of Points And Authorities In Support Thereof, With Proof Of Service

Docket 86

**Party Information**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11367 C & F Foods, Inc**

**Chapter 7**

**#7.00** Hearing  
RE: [10] Motion for Abstention Under Section 305 C & F Foods, Inc.'s Notice of Motion and Motion for Order Abstaining from Chapter 7 Case and Dismissing Involuntary Petition

Docket 10

**Party Information**

**Debtor(s):**

C & F Foods, Inc

Represented By  
Dean G Rallis Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11367 C & F Foods, Inc**

**Chapter 7**

**#8.00 Status Hearing**

RE: [1] Chapter 7 Involuntary Petition Against a Non-Individual - Inc. - :  
Hinrichs Trading, L.L.C. (attorney Michael Rogers), Rhodes-Stockton Bean Co-  
Op (attorney Michael Rogers), Tarke Bean, LLC (attorney Michael Rogers) .

fr. 3-31-20

Docket 1

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

C & F Foods, Inc

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#1.00** Hearing re [4365] Auction re: St. Vincent Medical Center  
fr. 4-1-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: AUCTION TO BE CONDUCTED OUT-OF-COURT BY DEBTORS**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-13797 Liboria Zavalza**

**Chapter 11**

**#1.00** Hearing re Confirmation of Chapter 11 Plan of Reorganizaton  
fr. 1-8-20

Docket 79

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-15-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Liboria Zavalza

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#1.00** Hearing Objection to cure amount asserted by: GE HFS, LLC [Docket No. 4371]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing Objection to cure amount asserted by: AppleCare Medical Group, Inc., AppleCare Medical Group, St. Francis Inc., and AppleCare Medical Management LLC [Docket No. 4391]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#3.00** Hearing Objection to cure amount asserted by: Hooper HealthcareConsulting LLC  
[Docket No. 4392];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00** Hearing Objection to cure amount asserted by: Aetna Life Insurance Company  
[Docket No. 4403];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** Hearing Objection to cure amount asserted by: Microsoft Corporation and Microsoft Licensing, GP [Docket No. 4405]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** Hearing Objection to cure amount asserted by: MedImpact Healthcare Systems, Inc. [Docket No. 4408];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#7.00** Hearing Objection to cure amount asserted by: Abbott Laboratories Inc. and Abbot Rapid Diagnostics Informatics, Inc. fka Alere Informatics, Inc. [Docket No. 4409];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#8.00** Hearing Objection to cure amount asserted by: Roche Diagnostics Corporation  
[Docket No. 4406];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#9.00** Hearing Objection to cure amount asserted by: SCAN Health Plan, [Docket No. 4414];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#10.00** Hearing Objection to cure amount asserted by: Cerner Corporation [Docket No. 4415];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#11.00** Hearing Objection to cure amount asserted by: Smith & Nephew, Inc. [Docket No. 4416];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#12.00** Hearing Objection to cure amount asserted by: Cardinal Health 200, LLC [Docket No. 4418];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#13.00** Hearing Objection to cure amount asserted by: Health Net of California, Inc.  
[Docket No. 4419];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, April 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#14.00** Hearing Objection to cure amount asserted by: Blue Shield of California Promise Health Plan f/k/a Care 1st Health Plan [Docket No. 4420];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

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**#15.00** Hearing Objection to cure amount asserted by: California Physicians Service dba Blue Shield of California [Docket No. 4421];

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

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**#16.00** Hearing Objection to cure amount asserted by: Humana Insurance Company and Humana Health Plan, Inc. [Docket No. 4423].

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

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**#17.00** Hearing re [4069] and [4169] Motion to Approve Sale of St. Francis Medical Center To The Highest And Best Bidder

Docket 0

**Tentative Ruling:**

4/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Sale Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Papers filed in connection with the Bidding Procedures Motion:
  - a) Debtors' Notice of Motion and Motion for the Entry of (I) An Order (1) Approving Form of Asset Purchase Agreement; (2) Approving Auction Sale Format and Bidding Procedures; (3) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (4) Approving Form of Notice to be Provided to Interested Parties; (5) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (6) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases; and (II) An Order Authorizing the Sale of Property Free and Clear of All Claims, Liens and Encumbrances [Doc. No. 4069] (the "Bidding Procedures Motion")
    - i) Application for Order Setting Hearing on Shortened Notice [Doc. No. 4070]
    - ii) Order Granting Application and Setting Hearing on Shortened Notice [Doc. No. 4071]
    - iii) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4069, 4070, 4071 and 4075 [Doc. No. 4115]
  - b) Opposition Papers:

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- i) Limited Objection to [Bidding Procedures Motion] [filed by UnitedHealthcare Ins. Co.] [Doc. No. 4106]
- ii) Reservation of Rights of U.S. Bank, N.A. [Doc. No. 4108]
- iii) SEIU-UHW's Reservation of Rights to Debtors' Bidding Procedures Motion [Doc. No. 4119]
  - (1) Proof of Service [Doc. No. 4120]
- c) Debtors' Reply and Supplement in Support of [Bidding Procedures Motion] [Doc. No. 4132]
- 2) Papers filed in connection with the Sale Motion:
  - a) Debtors' Memorandum in Support of Entry of an Order, Pursuant to 11 U.S.C. § 363(b), (f), and (m), (A) Authorizing the Sale of St. Francis Medical Center and Related Assets Free and Clear of All Claims, Liens, and Encumbrances; (B) Authorizing the Assumption and Assignment of Designated Executory Contracts and Unexpired Leases; and (C) Granting Related Relief [Doc. No. 4471] (the "Sale Motion")
    - i) Order (1) Approving Auction Sale Format and Bidding Procedures; (2) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (3) Approving Form of Notice to be Provided to Interested Parties; (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases [Doc. No. 4165] (the "Bidding Procedures Order")
    - ii) Notice of Sale Procedures, Auction Date, and Sale Hearing [Doc. No. 4167]
    - iii) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4161, 4165 and 4167 [Doc. No. 4208]
    - iv) Notice of Winning Bidder and No Auction Held [Doc. No. 4465]
  - b) SEIU-UHW's Objection and Reservation of Rights to Debtors' Motion for Sale of St. Francis Medical Center [Doc. No. 4495]
  - c) Objection and Reservation of Rights by United Nurses Association of California [Doc. No. 4498]
- 3) Assumption Objections filed by the following counterparties to executory contracts and unexpired leases:
  - a) GE HFS, LLC [Doc. No. 4371]
  - b) AppleCare Medical Group, Inc., AppleCare Medical Group, St. Francis Inc., and AppleCare Medical Management LLC [Doc. No. 4391]

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- c) Hooper Healthcare Consulting LLC [Doc. No. 4392]
- d) Aetna Life Ins. Co. [Doc. No. 4403]
- e) Microsoft Corp. and Microsoft Licensing, GP [Doc. No. 4405]
- f) Roche Diagnostics Corp. [Doc. No. 4406]
- g) MedImpact Healthcare Systems, Inc. [Doc. No. 4408]
- h) Abbott Laboratories Inc. and Abbott Rapid Diagnostic Informatics, Inc. fka Alere Informatics, Inc. [Doc. No. 4409]
- i) SCAN Health Plan [Doc. No. 4414]
- j) Cerner Corp. [Doc. No. 4415]
- k) Smith & Nephew, Inc. [Doc. No. 4416]
- l) Cardinal Health 200, LLC [Doc. No. 4418]
- m) Health Net of California, Inc. [Doc. No. 4419]
- n) Blue Shield of California Promise Health Plan fka Care 1st Health Plan [Doc. No. 4420]
- o) California Physicians' Service dba Blue Shield of California [Doc. No. 4421]
- p) Humana Ins. Co. and Humana Health Plan, Inc. [Doc. No. 4423]
- q) UnitedHealthcare Insurance Company [Doc. No. 4354]
- r) DaVita Inc. [Doc. No. 4407]
- s) Kaiser Foundation Hospitals [Doc. No. 4422]
- t) AT&T Corp. and AT&T Services [Doc. No. 4424]
- u) Angeles IPA Medical Group [Doc. No. 4425]
- v) Long Beach Memorial Medical Center [Doc. No. 4427]
- w) PIH Health Hospital—Downy and PIH Health Hospital—Whittier [Doc. No. 4443]
- x) Parallon Revenue Cycle Services, Inc. [Doc. No. 4426]
- y) Cigna Healthcare of California, Inc., Cigna Health and Life Ins. Co., Life Ins. Co. of North Am., Cigna Dental Health Plan of Arizona, Inc., Cigna Dental Health of California, Inc., and Cigna Dental Health of Texas, Inc. [Doc. No. 4366]

## **I. Facts and Summary of Pleadings**

Debtors move for entry of an order approving the sale of St. Francis Medical Center and related assets ("St. Francis") to Prime Healthcare Services, Inc. ("Prime"). Doc. No. 4471 (the "Sale Motion"). The United Nurses Association of California ("UNAC") and the Service Employees International Union, United Healthcare Workers-West ("SEIU-UHW") object to the Sale Motion.

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**A. Background**

On August 31, 2018 (the “Petition Date”), Verity Health System of California, Inc. (“VHS”) and certain of its subsidiaries (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors’ cases are being jointly administered. As of the Petition Date, the Debtors operated six acute care hospitals (the “Hospitals”).

On February 26, 2020, the Court entered an *Order (1) Approving Auction Sale Format and Bidding Procedures; (2) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (3) Approving Form of Notice to be Provided to Interested Parties; (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases* [Doc. No. 4165] (the “Bidding Procedures Order,” and the motion for entry of the Bidding Procedures Order, the “Bidding Procedures Motion”). The Bidding Procedures Order established procedures governing the auction (the “Auction”) of St. Francis.

The Bidding Procedures Order authorized the Debtors to designate a Stalking Horse Bidder without further order of the Court. The Debtors designated Prime as the Stalking Horse Bidder. The Debtors received bids from potential purchasers, but after consulting with their advisors and the Consultation Parties [**Note 1**], determined that such bids did not constitute Qualified Bids. The Debtors selected Prime as the Winning Bidder and did not conduct the Auction.

The material terms of the Asset Purchase Agreement (the “APA”) between the Debtors and Prime are as follows (capitalized terms have the meaning set forth in the APA):

- 1) Excluding the obligation to pay Cure Costs, the estimated Purchase Price is \$276 million, comprised of the following:
  - a) \$200 million Base Price. APA at § 1.1(a)(i).
  - b) \$61 million for the Accounts Receivable transferred at Closing (subject to adjustment). *Id.* at § 1.1(a)(iii).
  - c) \$5 million (estimated) for the Sellers’ payroll liabilities at Closing. *Id.* at § 1.1(a)(iv).
  - d) \$10 million (estimated) for accrued vacation and other paid time-off of the Sellers’ employees at Closing. *Id.* at § 1.1(a)(v).
- 2) Separate from, and in addition to, the Purchase Price, Purchaser commits to



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- invest \$47 million in capital expenditures for St. Francis. *Id.* at § 1.1(d).
- 3) Sellers shall retain QAF V Payments (estimated at \$29 million) and QAF VI Seller Net Payments (estimated at \$83 million). *Id.* at § 1.1(a)(ii).
  - 4) Sellers shall submit the sale to the California Attorney General (the “Attorney General”) for review pursuant to Cal. Corp. Code § 5914 *et seq.* *Id.* at § 8.3. The conditions on the transaction which the Purchaser has agreed to accept are set forth in Exhibit 5.8(c) (the “Approved Conditions”). *Id.* In the event the Attorney General seeks to impose conditions materially more burdensome than the Approved Conditions (the “Additional Conditions”), Sellers shall file a motion seeking entry of an order (a “Supplemental Sale Order”) finding that the Additional Conditions are an “interest in property” for purposes of § 363(f), and that the Assets can be sold free and clear of the Additional Conditions. *Id.* Additional Conditions which individually or collectively impose a direct or indirect cost to Purchaser of \$5 million or more shall be conclusively deemed to be “materially more burdensome.” *Id.* Purchaser shall be required to close the sale if (a) the Attorney General consents to the sale subject only to the Approved Conditions or if (b) Sellers obtain an unstayed Supplemental Sale Order within 60 days of the Attorney General’s attempt to impose Additional Conditions. *Id.*
  - 5) Sellers shall negotiate with the unions who represent Sellers’ employees at St. Francis (the “Unions”) with respect to collective bargaining agreements (the “CBAs”) related to St. Francis. *Id.* at § 4.9(b). Within thirty days after entry of the Sale Order, the negotiations shall have resulted in the Unions agreeing to either (a) modify the CBAs so that they are substantially consistent with Purchaser’s existing and most current CBAs with each Union or (b) enter into a new CBA that is substantially consistent with Purchaser’s existing and most current CBA with each Union. *Id.* If Purchaser and the Unions have not consensually entered into CBAs consistent with the foregoing requirements, Purchaser is not required to close the sale unless Sellers have obtained an order from the Bankruptcy Court rejecting and terminating the CBAs prior to the Closing Date. *Id.* at § 8.7.
  - 6) Either Sellers or Purchaser may terminate the APA if the sale has not closed on or before September 1, 2020 (the “Termination Date”), except that the Termination Date shall be December 31, 2020 if the only condition to closing that has not been satisfied is the Attorney General’s consent to the sale upon conditions consistent with the Approved Conditions. *Id.* at § 9.1(i).

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**B. Summary of SEIU-UHW's Objection**

SEIU-UHW makes the following arguments in support of its objection to the Sale Motion:

SEIU-UHW represents approximately 895 of the Debtors' employees at St. Francis. Employees of the Debtors represented by SEIU-UHW are covered by a CBA (the "SEIU-UHW CBA") containing a successorship provision that obligates any purchaser of St. Francis to assume the SEIU-UHW CBA in its entirety.

The sale cannot be approved because the APA violates the SEIU-UHW CBA's successorship provision. The APA does not contain the successorship language required by the SEIU-UHW CBA. To the contrary, the APA provides that the Debtors will assist Prime in renegotiating the SEIU-UHW CBA, and further provides that if SEIU-UHW does not agree to the modifications, the Debtors will seek to reject the SEIU-UHW CBA. This attempt to terminate or alter the successorship provisions of the SEIU-UHW CBA is impermissible because the Debtors have not yet sought modification or rejection of the SEIU-UHW CBA under § 1113. In *American Flint Glass Workers Union v. Anchor Resolution Corp*, the court held that a debtor could not alter its obligations under a CBA through a partial assumption and assignment to a purchaser because that would be an "attempt to effect an alteration of the CBA" and therefore the debtor "was required to comply with the procedures set out in Code § 1113." 197 F.3d 76, 81-82 (3d Cir. 1999).

The APA permits Prime to terminate the transaction if the Debtors fail to obtain an order finding that St. Francis may be sold free and clear of the Additional Conditions. This provision creates an unacceptable risk that the sale will not close. In addition, the Attorney General's authority to review the sale safeguards the availability of healthcare resources. The Court should require the APA to be amended to remove the Debtors' ability to seek a sale free and clear of conditions imposed by the Attorney General.

**C. Summary of UNAC's Objection**

UNAC makes the following arguments in support of its objection to the Sale Motion:

UNAC represents more than 900 nurses employed at St. Francis and is a party to a CBA with the Debtors (the "UNAC CBA"). The APA's provisions make it impossible

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for the Debtors to obtain modification of the UNAC CBA under § 1113. The UNAC CBA cannot be modified unless the Debtors bargain in good-faith with UNAC. The APA requires the Debtors to complete negotiations with UNAC within 30 days after the date of entry of the Sale Order. Good-faith negotiations cannot be completed in such a short time period, particularly in light of the COVID-19 pandemic. This abbreviated timeline is not necessary, given that the closing date of the sale is September 1, 2020 or December 31, 2020.

The APA requires the Debtors to negotiate to obtain modifications to the UNAC CBA that are consistent with Prime's CBAs at other hospitals. If consensual modification is not achieved, the Debtors are required to seek rejection or termination of the UNAC CBA. The terms of Prime's CBAs at other hospitals are substantially inferior to the terms of the UNAC CBA. Because St. Francis operates profitably, the modifications to the UNAC CBA sought by Prime are unnecessary and cannot be approved under § 1113.

## **II. Findings and Conclusions**

### **A. The Sale Motion is Granted**

Section 363(b) authorizes the Debtors to sell estate property out of the ordinary course of business, subject to court approval. The Debtors must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19–20 (9th Cir. BAP 1988). Whether the articulated business justification is sufficient “depends on the case,” in view of “all salient factors pertaining to the proceeding.” *Id.* at 19–20. “The court’s obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances.” *Simantob v. Claims Prosecutor, LLC (In re Lahijani)*, 325 B.R. 282, 288–89 (B.A.P. 9th Cir. 2005).

The Debtors have demonstrated sufficient business justification for the sale. The Debtors have shown that the sale of St. Francis as a going-concern is the best means of both maximizing the recovery for creditors and advancing the Debtors’ charitable mission of facilitating access to health care for underserved communities.

The Court finds that the Debtors have adequately marketed St. Francis. In June 2018, prior to the Petition Date, the Debtors engaged Cain Brothers, a division of KeyBanc Capital Markets (“Cain”) to market all of the Hospitals, including St. Francis. Beginning in July 2018, Cain prepared a Confidential Investment Memorandum (the “CIM”), created an online data room to share information with potential buyers, and contacted over 110 strategic and financial buyers. Subsequent to the Petition Date, Cain continued to market St. Francis.

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In connection with a prior sale to Strategic Global Management, Inc. (“SGM”) that did not close (the “SGM Sale”), St. Francis was extensively marketed. Cain notified 90 parties of the sale process, provided access to a data room to sixteen parties who executed non-disclosure agreements (“NDAs”), and remained in contact with potential purchasers to respond to questions and provide information.

After the SGM Sale failed to close, Cain commenced a new marketing process. In December 2019, Cain began making phone calls to parties who had previously expressed interest in acquiring St. Francis. On January 3, 2020, Cain e-mailed all parties who had previously executed NDAs and explained that the Debtors were initiating another marketing process. Ultimately, 61 parties executed NDAs with respect to the renewed marketing process and were granted access to an online data room.

On January 31, 2020, the Debtors received seven Indications of Interest (the “IOIs”) for the potential acquisition of St. Francis. Cain contacted the seven potential purchasers who submitted the IOIs and continued to work with the purchasers to respond to questions and provide information. In sum, Cain’s marketing efforts have been thorough and have provided interested parties a sufficient opportunity to bid for St. Francis.

Having reviewed the declarations of Richard G. Adcock (VHS’ CEO), James M. Moloney (the managing director of Cain), and A. Joel Richlin (Vice President, Deputy General Counsel, and Chief Litigation Counsel to Prime), the Court finds that Prime is a good-faith purchaser entitled to the protections of § 363(m). The Court makes this good-faith determination based upon the following findings of fact:

- 1) Neither Prime or its management have any material connections to the Debtor, except for professional connections developed during the bidding process.
- 2) Neither Prime or its management are insiders of the Debtors.
- 3) Neither Prime or its management is a creditor of the Debtors.
- 4) Prime negotiated the purchase of St. Francis in good faith and at arm’s length.
- 5) In connection with the Auction, Prime complied with the procedures set forth in the Bidding Procedures Order.
- 6) Neither Prime or its management colluded with anyone to depress the purchase price at the Auction.
- 7) Prime has disclosed all payments to be made by Prime and other agreements entered into or to be entered into with the Debtors in connection with the APA.
- 8) At all relevant times, both Prime and the Debtors were represented by counsel.

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**B. Issues To Be Determined at a Later Date**

To provide a clear record, issues preserved for adjudication at a later date are set forth herein.

**1. Issues Pertaining to the Transfer of the St. Francis Medi-Cal and Medicaid Provider Agreements**

The Court has approved stipulations setting a continued hearing on issues pertaining to the transfer of the Debtors' Medi-Cal and Medicare Provider Agreements for **May 13, 2020 at 10:00 a.m.** Doc. Nos. 4285 and 4345.

**2. Issues Pertaining to the Assumption and Assignment of Executory Contracts and Unexpired Leases**

The Bidding Procedures Order established procedures governing the assumption and assignment of executory contracts and unexpired leases pursuant to § 365. (For simplicity, as used hereafter, the term "executory contract" means an executory contract and/or an unexpired lease, as the context requires.) Pursuant to those procedures, the Debtors filed and served a *Notice to Counterparties to Executory Contracts and Unexpired Leases of the Debtors That May Be Assumed and Assigned* [Doc. No. 4267] (the "Cure Notice"). The Cure Notice identifies the amount, if any (the "Cure Amount") that the Debtors believe is owed to each counterparty on account of each executory contract which the Debtors seek to assume and assign to Prime (the "Designated Contracts").

Various counterparties objected to the Cure Amount, or asserted other objections to the assumption and assignment of the Designated Contract (each, an "Assumption Objection"). [Note 2] Pursuant to several stipulations approved by the Court, a continued hearing on the Assumption Objections is set for **April 29, 2020, at 10:00 a.m.** All issues raised in each Assumption Objection are preserved for the April 29 hearing. As set forth in the Court's orders approving the stipulated continuances, the following briefing deadlines shall apply:

- 1) The deadline for counterparties to file an objection (or supplemental objection) to the Cure Amount, or to present any other objection to the Debtors' assumption and assignment of the Designated Contract, shall be April 22, 2020.
- 2) The deadline for the Debtors to file a reply to any such objection shall be April

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3. Issues Pertaining to the Authority of the California Attorney General to Review the Sale

The Court has approved a stipulation between the Debtors and the California Attorney General with respect to the Attorney General's authority to review the sale under Cal. Corp. Code §§ 5914–5924 and accompanying regulations. Doc. No. 4348 (the "AG Stipulation"). Pursuant to the AG Stipulation, any order approving the sale shall include the following provision:

The California Attorney General, the Debtors, the Consultation Parties (as defined in the Bid Procedures Order) and Purchaser, reserve all rights, arguments and defenses concerning the California Attorney General's authority, if any, to review the sale under California Corporations Code §§ 5914-5924 and California Code of Regulations on Nonprofit Hospital Transactions—Title 11, Chapter 15, § 999.5, and any conditions issued thereto. Notwithstanding any provision to the contrary in the APA or the Sale Order, nothing in the APA or this Sale Order shall limit or be construed as a waiver of the Attorney General's statutory or regulatory authority or other rights or defenses, or a waiver of the Debtors' statutory or other rights or defenses.

AG Stipulation at ¶ 1.

4. Hooper Healthcare Consulting's Reservation of Rights

Hooper Healthcare Consulting, LLC ("Hooper") filed an Assumption Objection [Doc. No. 4392] (the "Hooper Assumption Objection") and a Reservation of Rights [Doc. No. 4463] (the "Hooper Reservation of Rights"). In the Hooper Reservation of Rights, Hooper incorporates by reference the arguments made in the Hooper Assumption Objection, and objects to the Sale Motion to the extent that any of the relief sought therein is contingent upon the assumption and assignment of the Designated Contracts to which Hooper is a party.

The Court confirms that all of the arguments asserted in the Hooper Assumption Objection are preserved for adjudication at the April 29, 2020 hearing.

**C. SEIU-UHW's Objection is Overruled**

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The Court rejects SEIU-UHW's contention that the Debtors are required to obtain rejection of the SEIU-UHW CBA under § 1113 prior to moving for approval of the sale. The Court has previously followed the approach set forth in *Local 211 v. Family Snacks, Inc., Official Unsecured Creditors' Comm. (In re Family Snacks, Inc.)*, 257 B.R. 884, 897 (B.A.P. 8th Cir. 2001), in which the court held that "there is nothing in the language of §1113 that dictates when an application to reject must be made." *Family Snacks*, 257 B.R. at 895. The *Family Snacks* court reasoned that requiring the §1113 process to be completed prior to an asset sale would give unions undue power over the sale process to the detriment of other creditors:

When a debtor is selling on a going concern basis, the union urges, *Ionosphere* should not apply because the only meaningful time the court can make a decision on rejection is prior to the sale. We see no basis for such a distinction, unless it is to give the union veto power over a going concern sale which, as we know from experience, is often the best way to reap the greatest benefit for all creditors. Section 1113 was never intended to give unions such power. Its sole purpose is to keep a debtor from unilaterally rejecting a CBA and to plainly articulate the rules for going about rejection. If, as *Ionosphere* concluded, a debtor who is liquidating piecemeal should not be forced into Chapter 7 in order to preserve its assets for equitable distribution to all creditors, the same is true for a debtor who is selling its assets on a going concern basis.

*Family Snacks*, 257 B.R. at 897.

SEIU-UHW argues that *Family Snacks* is distinguishable because the CBAs at issue therein did not contain a successor clause prohibiting sale absent assumption of the CBA. The Court finds that the presence of a successor clause in the SEIU-UHW CBA does not require the Debtors to obtain § 1113 relief prior to entry of the Sale Order. The sale will not close until after the Attorney General has conducted a review pursuant to Cal. Corp. Code §§ 5914–5924. Pursuant to Cal. Corp. Code § 5915, the Attorney General has 90 days, plus an additional 45 days if certain conditions are satisfied, to conduct the review. During this interim period, the APA requires the Debtors to attempt to renegotiate the SEIU-UHW CBA. In the event that such negotiations fail, the APA requires the Debtors to seek relief under § 1113. That is, the sale cannot close until the SEIU-UHW CBA has either been consensually renegotiated or has been modified or rejected under § 1113. Consequently, entry of

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the Sale Order now does not circumvent the protections afforded by § 1113.

SEIU-UHW objects to the APA's provisions giving the Debtors the option to seek a sale free and clear of any Additional Conditions that the Attorney General may seek to impose. SEIU-UHW argues that such provisions increase the risk of the sale not closing.

The Court declines to order modification of the APA. The APA was negotiated at arms-length between the Debtors and Prime and was the best deal that the Debtors could obtain for the estates. This is shown by the fact that notwithstanding Cain's extensive marketing efforts, no other parties submitted a Qualified Bid for St. Francis. After conducting due diligence, the seven parties who submitted IOIs, executed NDAs, and were granted access to the online data room declined to bid.

**D. UNAC's Objection is Premature**

UNAC argues that the APA contains provisions guaranteeing that the Debtors will be unable to satisfy the requirements of § 1113. UNAC contends that § 4.9 of the APA "establishes a 30-day deadline, running from the date of the Sale Order, for completion of negotiations" with respect to the UNAC CBA. Doc. No. 4498 at ¶ 5.

UNAC mischaracterizes the relevant provisions of the APA. Section 4.9 of the APA provides:

On or before the date that is thirty (30) days after the Sale Order Date, the negotiations pursuant to Section 4.9(a) shall have resulted in each, such labor unions, agreeing to either (i) either modification of the St. Francis related collective bargaining agreements under terms that are to be substantially consistent with the Purchaser's existing and most current collective bargaining agreements with each such respective labor union, and that settle all liabilities under the existing Seller collective bargaining agreements that shall be assigned to Purchaser, provided that there are shall be no cure obligations to the Sellers or (ii) enter into new collective bargaining agreements that are substantially consistent with the Purchaser's existing collective bargaining agreements with each such respective labor union; provided, that if Purchaser and each labor union have not entered into such agreements described in (i) or (ii) above, or have entered into an agreement under (ii), then Sellers shall have the absolute right to file or take any other action to reject and terminate any such collective bargaining agreement and, in such event, the Bankruptcy Court shall have entered an order granting Sellers' requested rejection of such



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collective bargaining agreement prior to the Closing Date. In no event will Sellers be liable for any obligations in respect of settlements described in this section.

APA at § 4.9(b).

Under § 8.7, Prime is not obligated to close the sale if the Debtors have not satisfied § 4.9(b). Section 8.7 provides:

Sellers shall have satisfied, in all material respects, their obligations set forth in Section 4.9(b). For the avoidance of doubt, in the event that Purchaser and each labor union has not entered into an agreement described in Section 4.9(b) (i) or (ii), then material satisfaction of Section 4.9(b) means that Seller has filed or taken action to reject and terminate any such collective bargaining agreement and that the Bankruptcy Court has entered an order granting Seller's requested rejection of such collective bargaining agreement prior to the Closing Date.

APA at § 8.7.

Contrary to UNAC's characterization, these provisions do not mean that negotiations with respect to the UNAC CBA must be completed within 30 days of entry of the Sale Order. Section 4.9(b) gives the Debtors the option of filing a motion to modify or reject the UNAC CBA if a consensual resolution has not been reached within 30 days of entry of the Sale Order. However, the Debtors are not required to have obtained an order rejecting or modifying the UNAC CBA until prior to the Closing Date (which is either September 1, 2020 or December 31, 2020, depending upon the outcome of the Attorney General's review).

Further, UNAC incorrectly presupposes that the filing of a § 1113 motion cuts off the process of negotiations. Section 1113 does not "require completion of negotiations before filing the motion" to modify or reject the CBA. *In re Walter Energy, Inc.*, 542 B.R. 859, 884 (Bankr. N.D. Ala. 2015), *aff'd sub nom. United Mine Workers of Am. 1974 Pension Plan & Tr. v. Walter Energy, Inc.*, 579 B.R. 603 (N.D. Ala. 2016), *aff'd sub nom. In re Walter Energy, Inc.*, 911 F.3d 1121 (11th Cir. 2018). To the contrary, § 1113 requires that negotiations continue even after the motion has been filed. *See* § 1113(b)(2) ("During the period beginning on the date of the making of a proposal provided for in paragraph (1) and ending on the date of the hearing provided for in subsection (d)(1), the trustee shall meet, at reasonable times, with the authorized

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representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.").

The APA does not lock the Debtors into a course of action making it impossible for them to treat the UNAC CBA in a manner consistent with § 1113. UNAC's objection is a premature attempt to advance arguments that are more appropriately raised at a later time, should the Debtors and UNAC be unable to resolve disputes with respect to the UNAC CBA.

### **III. Conclusion**

Based upon the foregoing, the Sale Motion is **GRANTED**. The Court will enter the form of Sale Order submitted as Ex. A to the Sale Motion.

#### **Note 1**

Unless otherwise indicated, capitalized terms not defined herein have the meaning set forth in the Bidding Procedures Order.

#### **Note 2**

The names of the counterparties who have filed Assumption Objections are set forth in ¶ 3 under "Pleadings Filed and Reviewed," above.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**#18.00** Hearing RE: [4443] Objection to Claim Cure notice filed by Creditor PIH Health Hospital Downey and PIH Health Hospital - Whittier

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**Chapter 11**

**#19.00** Hearing RE: [4354] Objection to Claim Cure notice filed by UnitedHealthcare Insurance Company

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**#20.00** Hearing Objection to Claim Cure notice filed byDaVita Inc. [Docket No. 4407];

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**#21.00** Hearing Objection to Claim Cure notice filed by Kaiser Foundation Hospitals [Docket No. 4422];

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**#22.00** Hearing Objection to Claim Cure notice filed by AT&T Corporation and AT&T Services, Inc. [Docket No. 4424];

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

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**#23.00** Hearing Objection to Claim Cure notice filed by Angeles IPA Medical Group [Docket No. 4425];

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



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**#24.00** Hearing Objection to Claim Cure notice filed by Long Beach Memorial Medical Center [Docket No. 4427];

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

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**#25.00 Hearing re [4469] Objection to Claim Cure notice filed by Parallon Revenue Cycle Services, Inc. F/K/A The Outsource Group, Inc**

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#26.00** Hearing re [4366] Objection Of Cigna Entities To Notice To Counterparties To Executory Contracts And Unexpired Leases Of The Debtors That May Be Assumed And Assigned

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-29-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**#100.00** Hearing re [4394] Sale of St. Vincent Medical Center  
fr. 4-1-20

Docket 0

**Tentative Ruling:**

4/10/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Sale Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Papers filed in connection with the Bidding Procedures Motion:
  - a) Debtors' Emergency Motion for the Entry of: (I) An Order (1) Approving Form of Asset Purchase Agreement; (2) Approving Auction Sale Format and Bidding Procedures; (3) Approving Stalking Horse Bidder and Bid Protections; (4) Approving Form of Notice to be Provided to Interested Parties; (5) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (6) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases; and (II) An Order Authorizing the Sale of Property Free and Clear of All Claims, Liens and Encumbrances [Doc. No. 4365] (the "Bidding Procedures Motion")
  - b) Order Setting Hearing on Debtors' Emergency Motion to Approve Bidding Procedures for the Auction of St. Vincent Medical Center [Doc. No. 4367]
    - i) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4365 and 4367 [Doc. No. 4369]
- 2) Papers filed in connection with the Sale Motion:
  - a) Debtors' Memorandum in Support of Entry of an Order, Pursuant to 11 U.S.C. § 363(b), (f), and (m), (A) Authorizing the Sale of Certain Assets of St.

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Vincent Medical Center, Verity Holdings, LLC, and Verity Health System of California, Inc., Free and Clear of all Claims, Liens, and Encumbrances; (B) Authorizing the Assumption and Assignment of Designated Executory Contracts and Unexpired Leases; and (C) Granted Related Relief [Doc. No. 4518]

- i) Order (1) Approving Form of Asset Purchase Agreement; (2) Approving Auction Sale Format and Bidding Procedures; (3) Approving Stalking Horse Bidder and Bid Protections; (4) Approving Form of Notice to Be Provided to Interested Parties; (5) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (6) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases [Doc. No. 4398] (the "Bidding Procedures Order")
- ii) Notice of Sale Procedures, Auction Date, and Sale Hearing Related to St. Vincent Medical Center [Doc. No. 4399]
- b) Objection of California Attorney General to Sale of St. Vincent Medical Center "Free and Clear" of Attorney General's Review and Consent or With a "Good Faith" Finding as to Purchaser [Doc. No. 4474]
- c) Response and Reservation of Rights of the State of California Governor's Office of Emergency Services to the Debtors' Motion for Entry of an Order Authorizing the Sale of St. Vincent Medical Center Free and Clear of All Claims, Liens and Encumbrances [Doc. No. 4442]
- d) SEIU-UHW's Response and Reservation of Rights to Debtors' Motion for Entry of Order Authorizing the Sale of St. Vincent [Doc. No. 4465]
- e) Limited Opposition of Belfor USA Group, Inc., to Debtors' Motion for an Order Authorizing the Sale of St. Vincent Medical Center Free and Clear of All Claims, Liens, and Encumbrances [Doc. No. 4462]
- f) Declaration of Douglas Reed Maughan Regarding the Qualification of Purchaser as Good-Faith Purchaser Pursuant to 11 U.S.C. § 363(m) in Connection with the Sale of Certain Assets [Doc. No. 4521]
- g) The Purchaser's Reply to Objection of Attorney General [Doc. No. 4523]

## **I. Facts and Summary of Pleadings**

Debtors move for entry of an order approving the sale of St. Vincent Medical Center and related assets ("St. Vincent") to Patrick Soon-Shiong IC, LLC, Patrick Soon-Shiong IC 2, LLC, and Patrick Soon-Shiong IC 3, LLC (the "Purchaser"), free and clear of liens, claims, and encumbrances (the "Sale Motion"). The California

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Attorney General (the "Attorney General") opposes the Sale Motion.

**A. The Closure of St. Vincent**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. As of the Petition Date, the Debtors operated six acute care hospitals (the "Hospitals").

On January 9, 2020, the Court authorized the Debtors to implement a plan to close St. Vincent on an emergency basis (the "Closure Plan"). *See* Doc. No. 3934 (the "Closure Order"). Pursuant to the Closure Order, emergency services were discontinued as of January 9, 2020, the dialysis center was closed as of January 13, 2020, all inpatients were discharged or transferred as of January 18, 2020, all outpatient visits ceased as of January 22, 2020, all transplant candidates were transferred as of January 23, 2020, all medical records were removed to off-site storage as of March 23, 2020, and all hazardous waste was removed as of March 26, 2020. *See* Doc. Nos. 3982, 4308, and 4410 (status reports describing implementation of the Closure Plan).

**B. The Court-Approved Agreement Authorizing the Debtors to Lease St. Vincent to the State of California**

On March 20, 2020, the Court authorized the Debtors to enter into a lease [Doc. No. 4302, Ex. C] (the "Lease") with the California Department of Public Health (the "State"), under which the Debtors leased St. Vincent to the State in exchange for monthly rent of \$2.6 million. Doc. No. 4315. The term of the Lease is six months, subject to monthly extensions for up to an additional six months. *Id.* at § 2. The Lease provides that the State shall have exclusive control of St. Vincent:

Tenant shall have exclusive control, possession, occupancy, use, and management of the Premises. Tenant shall have full and complete charge, authority and control of the administration, management and operation of the Medical Business at the Premises. Tenant shall have the right and authority to determine all business, technical and professional policies relating to the operation of the Medical Business, with no restrictions, qualifications or supervision by Landlord. Tenant shall determine the financial policy of the Medical Business and shall have complete power to fix, control and regulate

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the charges and collections made for services therein. Accordingly, Tenant shall be responsible for all operational and medical services provided at the Premises and the security of all persons and property at the Premises in compliance with applicable Laws, and Tenant acknowledges and agrees that Landlord is providing no services whatsoever and shall not responsible or otherwise liable for the same.

*Id.* at § 5.2.

**C. The Dispute Between the Debtors and the Attorney General Regarding the Attorney General's Authority to Review the Sale of St. Vincent**

*1. Background*

California law requires “[a]ny nonprofit corporation that ... operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or operates or controls a facility that provides similar health care, *regardless of whether it is currently operating or providing health care services or has a suspended license, ...* to provide written notice to, and to obtain the written consent of, the Attorney General prior to entering into any agreement or transaction” to sell a material amount of its assets. Cal. Corp. Code § 5914 (governing the sale of assets to a for-profit corporation or entity) and § 5920 (parallel provision governing the sale of assets to a nonprofit corporation or entity) (emphasis added). The Attorney General has discretion “to consent to, give conditional consent to, or not consent to” the transaction. Cal. Corp. Code §§ 5917 and 5923.

Prior to 2018, the California Corporations Code did not include the qualifying phrase “regardless of whether it [the health facility] is currently operating or providing health care services or has a suspended license.” In *In re Gardens Reg'l Hosp. & Med. Ctr., Inc.*, decided under the pre-2018 version of the Corporations Code, the Court found that a non-profit entity was not required to obtain the Attorney General's consent to sell a hospital that was no longer operating. 567 B.R. 828, 826 (Bankr. C.D. Cal. 2017). The Court reasoned that a closed hospital was not a “health facility” within the meaning of Cal. Health & Safety Code § 1250:

The statute specifies the characteristics of a “health facility” in the present tense—a facility qualifies only if it “*is ... operated for the diagnosis, care, prevention, and treatment of human illness*” (emphasis added). Cal. Health & Safety Code § 1250.

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“In construing statutes, the use of verb tense by the Legislature is considered significant.” *Hughes, supra*, 17 Cal.4th at 776, 72 Cal.Rptr.2d 624, 952 P.2d 641. The statute does not say that it applies to a facility that “is or previously was operated for the ... treatment of human illness.” In addition, a facility that is closed cannot meet the other requirements of the statute’s definition—a closed facility cannot diagnose or care for patients, or admit patients for a 24-hour stay or longer. In sum, the statute clearly and unambiguously applies only to health facilities that are operating.

*Gardens*, 567 B.R. at 827.

*Gardens* was decided on May 15, 2017. In June 2017, Assembly Member Al Muratsuchi introduced AB 651, which amended the Corporations Code by, among other things, inserting the language “regardless of whether it [the health facility] is currently operating or providing health care services or has a suspended license.” No changes were made to the definition of “health facility” set forth in § 1250 of the Health and Safety Code. AB 651 was enacted on October 14, 2017. 2017 Cal. Legis. Serv. Ch. 782 (A.B. 651) (West). The legislation took effect on January 1, 2018. *Id.*

The legislative history indicates that the amendments were enacted in response to *Gardens*. An analysis prepared by the Senate Committee on Health provides in relevant part:

Recent amendments to this bill, among other things, apply the AG review and consent process to a nonprofit facility “regardless of whether it is currently operating or providing health care services or has a suspended or cancelled license.” This issue came up in a recent transaction involving Gardens Regional Hospital and Medical Center (Gardens Hospital), which filed for Chapter 11 bankruptcy in June of 2016. As part of the bankruptcy process, and while still operating as a hospital, Gardens Hospital sought to sell the facility to a for-profit entity, Strategic Global Management, Inc. Under its review and consent process, the AG approved the sale, but imposed certain conditions, including minimum levels of charity care. After several rounds of negotiations where the buyer attempted to reduce the charity care obligations, the transaction was terminated, and Gardens Hospital, running out of money to operate the hospital, closed the facility on February 2, 2017 and placed its general acute care license in suspense.

Following closure, Gardens Hospital again sought to sell the assets of the



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hospital, including the suspended hospital license, and licenses and permits relating the pharmacy and laboratory. The proposed purchaser, American Specialty Management Group, intends to seek reinstatement of the suspended license, and open a new hospital on the premises. Gardens Hospital argued in the bankruptcy court that it was not required to obtain the consent of the AG to sell the assets, because the hospital is closed and no longer qualifies as a “health facility.” The AG disagreed, arguing that if this were the case, it would enable other nonprofit facilities to temporarily cease operations for purposes of selling their assets free of the AG’s review and consent, which would permit assets intended for charitable purposes to be acquired by for-profit entities without proper oversight. On May 15, 2017, the federal bankruptcy judge hearing the case ruled that assets of a closed hospital are not a “health facility” within the meaning of the provisions of law governing AG review and consent, and that Gardens Hospital was therefore not required to obtain the consent of the AG prior to selling those assets.

This decision prompted a recent article in the Healthcare Law Blog, entitled *To Report or Not Report – Is It Really a Question?* According to this article, the Gardens Hospital decision is currently being considered, discussed, and appealed for its conclusions regarding the AG’s ability to oversee nonprofit health facility transaction. According to this article, the lack of AG oversight is not reason enough to pursue the Gardens Hospital course of action in closing the facility, but it does tip the scales in favor of the termination or suspension of a hospital’s license to avoid the potential pitfalls associated with AG review.

California Bill Analysis, Senate Committee, 2017–2018 Regular Session, Assembly Bill 651, dated July 5, 2017, at pp. 5–6.

As enacted, AB 651 amended the Corporations Code to provide that the Attorney General’s review authority applied to a health facility “regardless of whether it is currently operating or providing health care services or has a suspended license.” An earlier version of AB 651 was broader, and would have extended the Attorney General’s review authority to both health facilities with a *suspended* license and to health facilities with a *cancelled* license. The legislative history indicates that the scope of the bill was deliberately narrowed. A report prepared for the Senate Committee on Health describing the earlier version of the bill containing the broader language states (emphasis added):

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Recent amendments to this bill apply the review and consent requirements related to nonprofit health facility transactions to nonprofit corporations even when the license of the health facility is suspended *or cancelled*. As described above, a recent case involving a hospital that had gone bankrupt and suspended its license led to a judge in the bankruptcy proceeding deciding that the AG did not have the authority to review and consent to the transaction in question because the license was suspended and it was no longer operating as a health facility. The AG's office views this decision as creating a loophole where one did not exist before. However, these amendments go beyond facilities where the license has been suspended, and also give the AG the ability to consent to transactions where a license has been terminated. Health facilities that close often suspend a license, because it is easier to resurrect a license from suspension and begin operating as a health facility again. However, if a license has been cancelled, *it is no longer a health facility at all*, and any entity wishing to reopen a health facility would have to start a new license application. Theoretically, these amendments could mean that a hospital could decide to close, for whatever reason, and terminate their license, but the AG would be able to continue to have final say over the disposition of those assets, and could control who was able to purchase the property, even when it is no longer licensed as a health facility. The author may wish to consider narrowing this provision, *either by applying it only to suspended licenses*, and/or limiting it to a certain length of time after the facility stops providing health care services.

California Bill Analysis, Senate Committee, 2017–2018 Regular Session, Assembly Bill 651, dated July 5, 2017, at pp. 8–9.

In response to the foregoing analysis, the Assembly Member Muratsuchi agreed to narrow the scope of the bill. As explained in a subsequent report prepared for the Senate Judiciary Committee: “Per the request of the Senate Committee on Health, the author agreed to take the following amendment that would remove the AG’s review of these agreements when they pertain to a non-profit health facility with a cancelled license.” California Bill Analysis, Senate Committee, 2017–2018 Regular Session, Assembly Bill 651, dated July 11, 2017, at p. 7.

*2. The Attorney General’s Position*

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The Attorney General asserts that he has authority to review the sale for the following reasons:

- 1) The legislative history makes clear that the Corporations Code was amended to reverse *Gardens*. “An amendment materially changing a statute following a court decision interpreting the statute in its original form is to be regarded as an indication of legislative intent to change the meaning of the law.” *O'Brien v. Dudenhoeffer*, 16 Cal. App. 4th 327, 335, 19 Cal. Rptr. 2d 826, 831 (1993). Courts “must reject an interpretation of the statute which would leave the prior judicial construction in effect.” *Id.* Under the amended Corporations Code, the Attorney General has authority to review the sale of health facilities even if they have closed.
- 2) There is no merit to the Debtors’ contention that the statute does not apply because the Debtors do not currently “operate or control” St. Vincent. The point of the amendment was to make clear that the statute applies regardless of whether the Debtors *currently* operate or control the facility.

*3. The Debtors’ Position*

The Debtors contend that the Attorney General lacks authority to review the sale of St. Vincent, notwithstanding the amendments to the Corporations Code. Debtors assert that Cal. Corp. Code § 5920 does not apply to the sale transaction for the following reasons:

- 1) Cal. Corp. Code § 5920 applies only to an entity that “operates or controls” a health facility. The Lease provides that the State “shall have exclusive control, possession, occupancy, use, and management” of St. Vincent. Lease at § 5.2. As a result, the Debtors no longer “operate or control” St. Vincent, making Cal. Corp. Code § 5920 inapplicable.
- 2) St. Vincent is not a “health facility” within the meaning of Cal. Health & Safety Code § 1250. St. Vincent has none of the attributes of a health facility. It is not “organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness.” Cal. Health & Safety Code § 1250. It does not have “an organized medical staff that provides 24-hour inpatient care,” Cal. Health & Safety Code § 1250(a). Under the Lease, the State has already acknowledged that St. Vincent is “providing no services whatsoever.” Lease at § 5.2. Finally, the Debtors intend to cancel St. Vincent’s

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**D. The Dispute Regarding whether the Purchaser is Entitled to Protections Under § 363(m)**

The APA provided that St. Vincent would be sold to the Chan Soon-Shiong Family Foundation (the “Foundation”), but authorized the Foundation to assign its rights under the APA to another entity. On the morning of the hearing, the Foundation assigned its rights under the APA to the Purchaser.

Prior to the Foundation’s assignments of its rights under the APA, the Attorney General opposed the Debtors’ request for a finding that the Foundation was a good-faith purchaser entitled to the protections of § 363(m).

The Foundation is an affiliate of NantWorks LLC (“NantWorks”), which is a secured creditor of the estates. Specifically, one of the Foundation’s directors, Dr. Soon-Shiong, also holds an interest in NantWorks.

According to the Attorney General, the sale transaction involves self-dealing, because the purchase price will satisfy some or all of NantWorks’ secured claim, thereby benefitting Dr. Soon-Shiong. The Attorney General argues that the Foundation’s purchase of St. Vincent could subject the Foundation to litigation and other enforcement actions by the Attorney General. The Attorney General’s theory is that Dr. Soon-Shiong is violating his fiduciary duties to the Foundation by orchestrating a transaction involving self-dealing. As a result, the Attorney General maintains, the Foundation does not qualify as a good-faith purchaser.

The Foundation disputes the Attorney General’s contention that the transaction involved self-dealing, but assigned its rights to the Purchaser to eliminate any suggestion that the transaction was tainted by self-dealing.

**E. The Dispute Regarding Satisfaction of Belfor’s Mechanic’s Lien**

Belfor USA Group, Inc. (“Belfor”) holds a mechanic’s lien against St. Vincent in the amount of \$250,733.03, plus interest and costs. Belfor objects to any sale free and clear of its lien, unless the sale proceeds are sufficient to satisfy its lien in full.

Debtors contend that that St. Vincent can be sold free and clear of Belfor’s lien pursuant to § 363(f)(1) and (5), regardless of whether the sale generates proceeds sufficient to satisfy the lien in full. Debtors argue that under California law, Belfor’s lien could be extinguished in a foreclosure proceeding. As a result, Debtors assert that a sale free and clear is appropriate under both § 363(f)(1) (authorizing sales free and clear where permitted under applicable nonbankruptcy law) and § 363(f)(5)

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(authorizing sales free and clear where the lienholder could be compelled to accept a money satisfaction of its interest).

**F. Other Papers Filed in Connection with the Sale Motion**

The Official Committee of Unsecured Creditors (the “Committee”) supports the Sale Motion. The Service Employers International Union–United Healthcare Workers West (the “SEIU-UHW”) does not object to the Sale Motion, but reserves its rights to assert claims against Dr. Soon-Shiong or any entities affiliated with him.

The State of California Governor’s Office of Emergency Services (the “Office of Emergency Services”), which is leasing St. Vincent from the Debtors, does not oppose the Sale Motion, but filed a Reservation of Rights to insure that the Sale Order is consistent with the Lease.

**II. Findings and Conclusions**

**A. Cal. Corp. Code § 5914 Does Not Apply to the Sale Because St. Vincent Will Cancel its License [Note 1]**

Cal. Corp. Code § 5914 provides in relevant part:

Any nonprofit corporation that ... operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or operates or controls a facility that provides similar health care, regardless of whether it is currently operating or providing health care services or has a suspended license, shall be required to provide written notice to, and to obtain the written consent of, the Attorney General prior to entering into any agreement or transaction to ... [s]ell ... its assets to a for-profit corporation or entity or to a mutual benefit corporation or entity ... when a material amount of the assets of the nonprofit corporation are involved in the agreement or transaction.

Cal. Health & Safety Code § 1250 defines a "health facility" as

a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer ....

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Under California law, the "ultimate task" in statutory interpretation "is to ascertain the Legislature's intent." *People v. Massie*, 19 Cal.4th 550, 569, 79 Cal.Rptr.2d 816, 967 P.2d 29 (1998). "Ordinarily, the words of the statute provide the most reliable indication of legislative intent." *Pac. Gas & Elec. Co. v. Cty. of Stanislaus*, 16 Cal.4th 1143, 1152, 69 Cal.Rptr.2d 329, 947 P.2d 291 (1997). Only where the statutory language is ambiguous may the Court consider "evidence of the Legislature's intent beyond the words of the statute," such as the "statutory scheme of which the provision is a part, the history and background of the statute, the apparent purpose, and any considerations of constitutionality ...." *Hughes v. Bd. of Architectural Examiners*, 17 Cal.4th 763, 776, 952 P.2d 641 (1998). "When statutory language is ... clear and unambiguous there is no need for construction, and *courts should not indulge in it.*" *Delaney v. Superior Court*, 50 Cal.3d 785, 800, 268 Cal.Rptr. 753, 789 P.2d 934 (1990) (emphasis in original). However, the "language of a statute should not be given a literal meaning if doing so would result in absurd consequences which the Legislature did not intend." *Younger v. Superior Court*, 21 Cal.3d 102, 113, 145 Cal.Rptr. 674, 577 P.2d 1014 (1978).

Here, resort to legislative history is necessary because the statute is internally contradictory. Cal. Corp. Code § 5914 states that the Attorney General has authority over a "health facility," as defined by Cal. Health & Safety Code § 1250, regardless of whether the health facility "is currently operating or providing health care services or has a suspended license." Cal. Corp. Code § 5914 therefore suggests that a facility that is no longer operating can qualify as a "health facility." This contradicts Cal. Health & Safety Code § 1250, which defines "health facility" in a manner such that only facilities that are actively providing healthcare services can qualify.

Fortunately, resort to the legislative history resolves the contradiction and makes the Legislature's intent clear. As discussed above, an earlier version of the legislation gave the Attorney General authority to review the sale of health facility, "regardless of whether it is currently operating or providing health care services or has a suspended *or cancelled* licensed." In response to the Senate Health Committee's concern that this provision was too broad, the language "or cancelled" was removed. The relevant committee report explains that the change was necessary because a facility that formerly provided health care services but whose license had been cancelled "is no longer a health facility at all." California Bill Analysis, Senate Committee, 2017–2018 Regular Session, Assembly Bill 651, dated July 5, 2017, at pp. 8–9. The broad scope of the earlier provision was of concern because "a hospital could decide to close, ... but the AG would be able to continue to have final say over the disposition of those

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assets, and could control who was able to purchase the property, even when it is no longer licensed as a health facility.” *Id.* This concern was eliminated after the bill’s author agreed to limit the scope of the provision “by applying it only to suspended licenses,” as recommended by the Senate Health Committee. *Id.*; see also California Bill Analysis, Senate Committee, 2017–2018 Regular Session, Assembly Bill 651, dated July 11, 2017, at p. 7 (“Per the request of the Senate Committee on Health, the author agreed to take the following amendment that would remove the AG’s review of these agreements when they pertain to a non-profit health facility with a cancelled license.”).

The upshot is that the Legislature intended the amended statute to be interpreted in the following manner: A facility that in the past actively provided health care services but is now closed is still a “health facility” over which the Attorney General has regulatory authority, provided that the facility’s license to provide healthcare services has been suspended but not cancelled. But if the same facility’s license is cancelled, the facility is no longer a health facility, and the Attorney General lacks authority to regulate the facility’s sale.

In addition to being consistent with the legislative history, this interpretation of the statute avoids absurd results. The purpose of the statute is to preserve access to health care to “uninsured low-income families” and the “poor, elderly, and disabled.” See 1996 Cal. Legis. Serv. Ch. 1105 (A.B. 3101) (West) (legislative findings in support of Cal. Corp. Code § 5914, the parallel provision to Cal. Corp. Code § 5920). A closed facility whose license has been suspended can, without undue difficulty, be reopened, have its license reinstated, and continue to provide health care services. Providing the Attorney General regulatory authority over such facilities is therefore consistent with the statute’s objective of preserving health care access.

By contrast, a facility whose license has been cancelled cannot provide health care services unless it obtains an entirely new license, a much more difficult process. Such a facility, as the Senate Committee Report stated, “is no longer a health facility at all.” California Bill Analysis, Senate Committee, 2017–2018 Regular Session, Assembly Bill 651, dated July 5, 2017, at pp. 8. Providing the Attorney General regulatory authority over such facilities would not preserve access to health care. Where the *raison d’etre* of the Attorney General’s regulatory authority is to preserve access to health care services, it would be absurd to construe the statute in a manner extending such authority to facilities that are no longer health facilities.

St. Vincent intends to cancel its license. [Note 2] Once the license has been cancelled, St. Vincent will no longer qualify as a “health facility,” making Cal. Corp.

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Code § 5914 inapplicable to the sale.

The post-*Gardens* amendments to the statute were intended to prevent a health facility from closing, suspending its license, selling its assets without Attorney General review, and then reopening and continuing to provide health care services after obtaining reinstatement of its license. That possibility does not exist here. After St. Vincent's license has been cancelled, it cannot obtain license reinstatement and continue operating as a health facility. In short, the concerns motivating the legislative response to *Gardens* simply do not apply to the present case.

**B. The Court Approves the Sale, Free and Clear of the Attorney General's Alleged Authority to Review the Sale Under Cal. Corp. Code § 5914**

Section 363(d)(1) authorizes non-profit entities, such as the Debtors, to sell estate assets only if the sale is "in accordance with nonbankruptcy law applicable to the transfer of property by" a non-profit entity. Section 541(f) similarly provides that property held by debtors that are § 501(c)(3) corporations under the Internal Revenue Code may be transferred, but "only under the same conditions as would apply if the debtor had not filed a case under this title." Section 363(b) permits the debtor to sell estate property out of the ordinary course of business, subject to court approval. The debtor must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19–20 (9th Cir. BAP 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19–20. Section 363(f)(1) provides that a sale of estate property may be "free and clear of any interest in such property of an entity other than the estate, only if applicable nonbankruptcy law permits sale of such property free and clear of such interest ...."

Pursuant to § 363(b) and (f)(1), the Court approves the sale of St. Vincent free and clear of the Attorney General's claim that he may impose conditions upon the terms of the sale or the use of St. Vincent after the sale. For the reasons explained above, applicable nonbankruptcy law permits the sale of St. Vincent absent the consent or review of the Attorney General.

The Attorney General's contention that he is entitled to impose conditions upon the sale constitutes an "interest in ... property" of which St. Vincent may be sold free and clear. The Bankruptcy Code does not define the phrase "interest in ... property" for purposes of § 363(f). The Third Circuit has held that the phrase "interest in ... property" is "intended to refer to obligations that are connected to, or arise from, the property being sold." *Folger Adam Sec., Inc. v. DeMatteis/MacGregor JV*, 209 F.3d



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252, 259 (3d Cir. 2000). That conclusion is echoed by *Collier on Bankruptcy*, which observes a trend in caselaw “in favor of a broader definition [of the phrase] that encompasses other obligations that may flow from ownership of the property.” 3 Alan N. Resnick & Henry J. Sommer, *Collier on Bankruptcy* ¶ 363.06[1] (16th ed. 2017). The Attorney General’s alleged ability to require the Debtors to submit to a regulatory review process prior to selling St. Vincent is an obligation connected to and arising from the property being sold.

**C. The Sale is Free and Clear of Belfor’s Mechanic’s Lien**

The sale is free and clear of Belfor’s mechanic’s lien (the “Belfor Lien”), pursuant to § 363(f)(1) and (f)(5). Outside of bankruptcy, a junior lien, such as the Belfor Lien, could be extinguished in a foreclosure proceeding, even if proceeds were insufficient to satisfy the junior lien in full. *See Principal Mut. Life Ins. Co. v. Vars, Pave, McCord & Freedman*, 65 Cal. App. 4th 1469, 1478, 77 Cal. Rptr. 2d 479, 484 (1998) (“Title to real property which is conveyed after foreclosure by a trustee’s deed relates back to the date the trust deed was executed. The title passed is that held by the trustor at the time of execution. Liens which attached after the foreclosed trust deed was executed are extinguished and the purchaser takes title free of those junior or subordinate liens.”). Thus, St. Vincent could be sold free and clear of the Belfor Lien under applicable non-bankruptcy law, making a sale free and clear appropriate under § 363(f)(1). A foreclosure proceeding is also a “legal or equitable proceeding” in which Belfor could be compelled “to accept a money satisfaction of its interest,” making a sale free and clear appropriate under § 363(f)(5).

**D. The Purchaser is Entitled to § 363(m) Protections**

Section 363(m) provides that the “reversal or modification on appeal of an authorization ... of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.”

The purpose of § 363(m) is to discourage bidders from colluding for the purpose of driving down the sales prices at bankruptcy auctions. *See Ewell v. Diebert (In re Ewell)*, 958 F.2d 276, 281 (9th Cir. 1992) (“Typically, lack of good faith is shown by fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders”).

Having reviewed the declarations of Douglas Reed Maughan (Purchaser’s

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Treasurer), Richard G. Adcock (VHS' CEO), and James M. Moloney (the managing director of Cain Brothers, the Debtors' financial advisors), the Court finds that the Purchaser is a good-faith purchaser entitled to the protections of § 363(m). The Court makes this good-faith determination based upon the following findings of fact:

- 1) Purchaser is not a creditor of the Debtors.
- 2) Purchaser is not an insider of the Debtors.
- 3) At all relevant times, both Purchaser and the Debtors were represented by counsel.
- 4) Purchaser complied with the procedures set forth in the Bidding Procedures Order.
- 5) Purchaser did not collude with any other potential bidders to chill bidding.

The fact that Dr. Soon-Shiong, an affiliate of the Purchaser, also holds an interest in NantWorks, whose secured claim will be partially or fully satisfied from the sales proceeds, in no way weighs against a good-faith finding. “[T]he cases are clear that a creditor can also be a good faith purchaser.” *Matter of Youngstown Steel Tank Co.*, 27 B.R. 596, 599 (W.D. Pa. 1983). Bankruptcy courts routinely allow secured creditors to serve as stalking horse bidders in § 363 auctions, and grant § 363(m) protections if the secured creditor emerges as the winning bidder at the auction.

### **III. Conclusion**

Based upon the foregoing, the Sale Motion is **GRANTED** in its entirety. Notwithstanding Bankruptcy Rule 6004, the order approving the sale (the “Sale Order”) shall take effect immediately upon entry. Prompt closing of the sale is necessary given the estates' precarious financial position. In addition, there is a risk that the Purchaser will walk away if the sale does not close promptly, since the purpose of the sale—establishing a research center to address the Covid-19 pandemic—would be defeated absent a prompt closing.

#### **Note 1**

On the morning of the hearing, the Purchaser filed a declaration stating that the Foundation had assigned its rights under the APA to the Purchaser. The Purchaser is not a non-profit corporation. Therefore, to the extent the Attorney General has authority to review the sale, it would be under Cal. Corp. Code § 5914, not under § 5920. The parties briefed the Sale Motion under the assumption that § 5920 was the

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controlling provision. The language of § 5914 is substantially identical to § 5920; the only difference is that § 5914 governs sales to for-profit corporations and § 5920 governs sales to non-profit corporations. The change in the buyer's identity does not affect the analysis of whether the Attorney General has authority to review the sale.

**Note 2**

At the hearing, the Debtors should be prepared to address whether St. Vincent can unilaterally cancel its license or whether cancellation requires government approval. Debtors should also be prepared to address the timeline for license cancellation.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:19-24461 BARRY RAYGAN**

**Chapter 7**

**#1.00** HearingRE: [18] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4161 Vista Montana, Torrance, CA 90505 .

Docket 18

**Tentative Ruling:**

4/10/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Since a chapter 7 case does not contemplate reorganization, the sole issue before the Court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the Debtor has equity in the property. See, e.g., Martens v. Countrywide Home Loans (In re Martens), 331 B.R. 395, 398 (B.A.P. 8th Cir. 2005); Ramco Indus. v. Preuss (In re Preuss), 15 B.R. 896, 897 (B.A.P. 9th Cir. 1981).

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**CONT... BARRY RAYGAN**

**Chapter 7**

The subject property has a value of \$1,072,000 (Schedule A/B) and is encumbered by a perfected junior deed of trust or mortgage in favor of the Movant. The liens against the property and the expected costs of sale total \$1,082,974. The Court finds there is no equity and there is no evidence that the trustee can administer the subject real property for the benefit of creditors.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

BARRY RAYGAN

Represented By  
Daniel S March

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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**2:20-10795 Francisco Cruz Juliano and Melita Bacani Juliano**

**Chapter 7**

**#2.00 Hearing**

RE: [13] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 652 Tina Court, Lancaster, CA 93535 . (Jafarnia, Merdaud)

Docket 13

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL OF MOTION FILED  
3/24/20**

**Tentative Ruling:**

- NONE LISTED -

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

Francisco Cruz Juliano

Represented By  
Daniel King

**Joint Debtor(s):**

Melita Bacani Juliano

Represented By  
Daniel King

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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10:00 AM

**2:20-11286 Jude Candido Jaramillo**

**Chapter 7**

**#3.00** HearingRE: [19] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: Triplex located at 9406-9408 Harrell Street, Pico Rivera, CA 90660 to Allow Movant Pamela Trujillo to (1) Proceed with Nonjudicial Foreclosure under Movant's Deed of Trust, Pursuant to California State Law, and (2) to Enforce Rents Clause in Movant's Deed of Trust.

Docket 19

**Tentative Ruling:**

4/10/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons stated below, the Motion is GRANTED pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit Movant, its successors, transferees and assigns, to enforce their remedies to foreclose upon and obtain possession of the Property in accordance with applicable law (see below regarding Emergency Rules of the California Rules of Court) . To the extent applicable, the Motion is further GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit the Movant to proceed under applicable nonbankruptcy law to enforce her remedies with respect to the Rents Clause. Except as otherwise stated herein, the Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

**Pleadings Filed and Reviewed:**

1. Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Real Property) (the "Motion") [Doc. No. 19]
2. Chapter 7 Trustee's Opposition to Pamela Trujillo's Motion for Relief from the Automatic Stay (the "Opposition") [Doc. No. 22]
3. Reply of Movant Pamela Trujillo – Ex-Wife – Holding Recorded DOT – Replying to Chapter 7 Trustee John Pringle's Opposition to Trujillo's Motion

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**Jude Candido Jaramillo**

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for Relief from Stay (the "Reply") [Doc. No. 25]

4. Notice of Withdrawal of Chapter 7 Trustee's Opposition to Movant's Motion [Doc. No 28].

## **I. Facts and Summary of Pleadings**

Jude Candido Jaramillo (the "Debtor") filed this voluntary chapter 7 case on February 5, 2020. John P. Pringle was appointed as chapter 7 trustee (the "Trustee"). On March 17, 2020, the Debtor's former spouse, Pamela Trujillo (the "Movant"), filed a "Motion for Relief From the Automatic Stay Under 11 U.S.C. § 362 (Real Property)" (the "Motion") [Doc. No. 19] seeking stay-relief with respect to real property located at 9406-9408 Harrell Street, Pico Rivera, CA 90660 (the "Property"). On October 27, 2017, the Debtor and Movant terminated their marriage pursuant to a dissolution judgment (the "Judgment"), which was recorded on February 13, 2019. *See* Motion, Ex. C. Under the terms of the Judgment, the Debtor was obligated to pay Movant \$223,214.80 within three years, consisting of monthly payments of \$1,300. *Id.* at 46 (the pages cited to the Motion follow the pagination provided at the bottom of the document). Pursuant to the Judgment, on February 28, 2019, the Debtor extended a promissory note to the Movant in the sum of \$209,979.61 (the "Promissory Note"), which was secured by the Property through a deed of trust recorded on March 5, 2019. *See* Motion, Ex. A at 18. Because Debtor did not make any payments on the note, Movant claims that she is authorized to sell the Property under both the Judgment and the Promissory Note. Declaration of Pamela Trujillo ("Trujillo Decl."), ¶¶ 4, 8.

### **The Motion**

Pursuant to § 362(d)(1), Movant argues that her secured interest in the Property is not adequately protected. Accordingly, after factoring in an 8% sale cost (\$84,000), Movant contends that the total debt against the Property of \$1,132,318 exceeds its \$1,050,000 fair market value. *See* Motion at 8. The Property is encumbered by Movant's third-priority deed of trust in the amount of \$209,979, two senior liens (\$747,252), and by a third-party judgment lien (the "Klee Judgment") (\$122,278.79). *See* Motion at 8; Trujillo Decl., ¶ 15. The Movant disputes the Debtor's \$761,000 valuation of the Property, claiming that the Debtor duplicitously undervalued the Property in his schedules. The Movant's proposed valuation is based on the Property's purchase price on or about the fall of 2019—the price that a willing



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buyer almost paid for the Property, according to Movant. *See* Trujillo Decl., ¶ 14. At the Debtor's first 341(a) meeting, the Movant claims that Debtor admitted that the purchase agreement was not consummated because Debtor planned to avoid the Klee Judgment in bankruptcy. *See id.* Additionally, the Movant requests permission to enforce the rents clause (the "Rents Clause") in her deed of trust to collect any revenue Debtor received from renting the Property. *See* Motion, Ex. A, ¶ 3.4 (Movant's deed of trust contains an "assignment of rents" clause).

Similarly, Movant asserts that cause exists to grant her relief from stay under § 362(d)(2) because the Debtor has no equity in the Property, and the Property is not necessary for an effective reorganization because this is a chapter 7 case. In sum, the Movant requests stay-relief to initiate nonjudicial foreclosure proceedings as to the Property, and to enforce the rents clause.

**Opposition**

On March 30, 2020, the Trustee filed an opposition to the Motion [Doc. No. 22] (the "Opposition"). The Trustee initially asked that the Court continue the Motion for 60 days; however, on April 8, 2020, the Trustee withdrew his objection [Doc. No. 28]. Therefore, the Trustee's substantive arguments will not be summarized herein.

**Reply**

On April 3, 2020, the Movant filed a timely response to the Trustee's Opposition (the "Reply"). The Reply provided extensive briefing in response to the Opposition. Given that the Opposition was withdrawn, however, these arguments will not be restated herein.

Separately, for the first time in reply, the Movant requests that the Court issue a criminal prosecution reference against the Debtor, for purportedly understating the Property's fair market value with knowledge and intention. *See* Reply at 2.

**II. Findings of Fact and Conclusions of Law**

As an initial matter, the Court finds that Movant's request to issue a criminal reference against the Debtor is inappropriately raised in the Reply. Local Bankruptcy Rule ("LBR") 9013-1(g)(4) prohibits the introduction of new evidence or arguments in reply papers. LBR 9013-1(g)(4) is a codification of the Ninth Circuit's well-established "general rule that [litigants] cannot raise a new issue for the first time in their reply briefs." *Martinez-Serrano v. I.N.S.*, 94 F.3d 1256, 1259 (9th Cir. 1996); *see also Sweet v. Pfizer*, 232 F.R.D. 360, 364 n.7 (C.D. Cal. 2005) (refusing to consider a declaration

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because "the moving party in a motion cannot submit new information as part of its Reply."). Therefore, the Court declines to consider the Movant's request. To do so would deprive the Debtor the opportunity to respond to the new arguments set forth therein.

**Relief from Stay**

Under § 362(d)(1), the Court shall grant relief if the movant's interest in the property is not protected by an adequate equity cushion. In the Ninth Circuit, "[a] 20% [equity] cushion has been held to be an adequate protection for a secured creditor." *In re Mellor*, 734 F.2d 1396, 1401 (9th Cir. 1984); see *Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.)*, 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). Under 11 U.S.C. § 362(d)(2), the court shall grant relief from the stay if "(A) the debtor does not have any equity in such property; and (B) such property is not necessary for an effective reorganization." The Movant bears the initial burden to show that there is no equity in the Property, which is in turn dependent upon the fair market value of the Property. See § 362(g).

The Court must first address the valuation of the Property. In contrast to the Debtor's \$761,000 estimate, the Movant posits that the Property has a fair market value of \$1,050,000, which was the purchase price that a willing buyer almost paid for the Property. The Movant suggests that the transaction would have closed but for Debtor's decision to avoid paying the Klee Judgment in bankruptcy. See Trujillo Decl., ¶ 14 ("[Debtor] stopped the sale to file bankruptcy because a judgment creditor filed a lien just before the close of escrow, and he did not want to pay that lien."). Based on the evidence supplied, the Court is unable to determine how the Debtor's purported statements indicate that the Property had a fair market value of \$1,050,000 as of the filing of the Motion. The record is extremely limited with respect to this issue. However, for the purposes of this tentative ruling, the Court will adopt the uncontested valuation of \$1,050,000. Even if the Court were to adopt Debtor's valuation, it does not make any difference whether the Property is valued at \$1,050,000 or \$761,000 because in either circumstance, the Debtor would have very little or no equity in the Property.

Here, Movant has established a *prima facie* case that cause exists, and neither the Debtor, nor the Trustee have responded with evidence establishing that the

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Property is not declining in value or that Movant is adequately protected. Based on Movant's uncontested figures, the Property has a value of \$1,050,000, and is encumbered by a perfected deed of trust in favor of the Movant. Considering all senior liens, Movant's junior lien, and the estimated costs of sale, there is approximately an equity cushion of \$8,769, which is less than 1% of the fair market value of the Property. Because the equity cushion in this case is less than 20%, the Court concludes that Movant's interest in the collateral is not adequately protected. This is cause to terminate the stay under § 362(d)(1).

Based on the figures provided, the Court further finds that Movant is also entitled to stay-relief under § 362(d)(2). The total sum of liens against the Property and the expected costs of sale total approximately \$1,216,318. The Court finds that there is no equity and there is no evidence that the Trustee can administer the Property for the benefit of creditors.

**Request to Enforce Rents Clause**

The Movant further seeks stay-relief to proceed under California law to enforce the Rents Clause contained in her deed of trust (Motion, Ex. A, para. 3.4) and collect any revenue the Debtor has obtained from renting the Property.

Section 362(d)(1) permits a bankruptcy court to grant relief from the automatic stay upon a showing of "cause." In the Ninth Circuit, courts consider 12 non-exclusive factors to determine whether "cause" exists to lift the automatic stay to permit actions against a debtor in a non-bankruptcy forum:

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 a fiduciary;
4. Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
5. Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
6. Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in

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question;

7. Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;
8. Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c);
9. Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);
10. The interests of judicial economy and the expeditious and economical determination of litigation for the parties;
11. Whether the foreign proceedings have progressed to the point where the parties are prepared for trial, and
12. The impact of the stay on the parties and the "balance of hurt[.]"

*In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559 (Bankr. C.D. Cal. 2004).

Not all the factors are relevant in every case, and the Court is not required to give equal weight to each factor. *Id.* at 560.

Here, the Rents Clause reads as follows:

Trustor [the Debtor] hereby assigns and transfers to Beneficiary [the Movant] all right, title and interest in rents generated by the property, including rents now due, past due, or to become due under any use of the property, to be applied to the obligations secured by this Deed of Trust.

- (a) Prior to a default on this Deed of Trust by Trustor, Trustor will collect and retain the rents
- (b) On default by Trustor, Beneficiary will immediately be entitled to possession of all unpaid rents.

Motion, Ex. A, ¶ 3.4. To the extent that the Movant seeks to enforce this provision by filing a state court action, the Court finds that the Movant has presented an adequate discussion of the *Plumberex* factors based on her declaration and all exhibits affixed thereto. Allowing the Movant to enforce her rights under the deed of trust in a nonbankruptcy forum will best promote the judicial economy by adjudicating a final judgment as to underlying claims that may either support or negate the filing of a proof of claim and/or an adversary complaint.

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**III. Conclusion**

Based on the foregoing, the Motion is GRANTED pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit Movant, its successors, transferees and assigns, to enforce their remedies to foreclose upon and obtain possession of the Property in accordance with applicable law. To the extent applicable, the Motion is further GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit the Movant to proceed under applicable nonbankruptcy law to enforce her remedies with respect to the Rents Clause. Except as otherwise stated herein, the Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.**

The Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Jude Candido Jaramillo

Represented By  
Jacqueline D Serrao

**Trustee(s):**

John P Pringle (TR)

Pro Se

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**2:20-11316 Jonathan Andrew Arid**

**Chapter 7**

**#4.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Bentley Flying Spur, VIN: SCBEC9ZA7EC093136 . (Wang, Jennifer)

Docket 11

**Tentative Ruling:**

4/10/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the debtor stated an intention to surrender the property to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Jonathan Andrew Arid

Represented By  
Richard G Heston

**Trustee(s):**

Timothy Yoo (TR)

Pro Se



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**2:20-11664 Jose Alberto Vazquez**

**Chapter 7**

**#5.00** HearingRE: [15] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Dodge Durango, VIN: 1C4RDHEG6EC537087 . (Wang, Jennifer)

Docket 15

**Tentative Ruling:**

4/10/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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**CONT... Jose Alberto Vazquez**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Jose Alberto Vazquez	Pro Se
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**Trustee(s):**

Rosendo Gonzalez (TR)	Pro Se
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**2:20-11781 Marquis Campbell**

**Chapter 7**

**#6.00** HearingRE: [6] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6023 3RD AVENUE, LOS ANGELES, CALIFORNIA 90043 . (Weber, Edward)

Docket 6

**Tentative Ruling:**

4/10/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Alleged Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). "

The Court finds that there is good cause to grant relief pursuant to 11 U.S.C. § 362(d)(1). Kristoff Lusic, Benjamin Farquhar, and Elisa Ritter (jointly, the "Petitioners") filed an involuntary chapter 7 petition against Marquis Campbell (the "Alleged Debtor") on February 19, 2020. On February 22, 2019, the Alleged Debtor executed a security instrument secured by real property located at 6023 3rd Avenue, Los Angeles, CA 90043 (the "Property") in favor of Peter H. Lucas, Amalia P. Lucas, and Seaglass Capital, LLC (the "Movants"). *See* Motion, Ex. B. As indicated on Exhibit D [Doc. No. 6], the Alleged Debtor purportedly granted a 10% interest in the Property to one Charles Thompson ("Thompson") by way of a grant deed. The grant deed is dated December 17, 2019, subsequent to the Alleged Debtor's first default on the promissory note indorsed to the Movants. *See* Motion, Ex. E. Accordingly,

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Thompson filed an unrelated bankruptcy case implicating an interest in the Property, which went up before the Honorable Scott H. Yun. *See* Motion, Ex. G. On February 27, 2020, Judge Yun entered an order granting a stay-relief motion filed by Movants concerning the Property, finding thereon that the filing of Thompson's petition was part of a scheme to hinder, delay, or defraud creditors. Based on the foregoing, the Motion is granted under § 362(d)(1) based on the Alleged Debtor's unauthorized transfer of a real property interest to Thompson.

Based upon Movants' declaration, the prior recent bankruptcy effecting this Property and the hearing re dismissal of this involuntary petition for which the petitioning creditors did not appear, the Motion is GRANTED with respect to relief under § 362(d)(4).

Hence, the Motion is GRANTED to permit Movants, its successors, transferees and assigns, to enforce its remedies with respect to the Property in accordance with applicable law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, the order shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the Court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept a certified copy of this order for indexing and recording.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

The Court notes that Alleged Debtor's case was dismissed on 04/01/2020. The Court vacates the dismissal for the limited purpose of entering an order on this Motion.

Movants shall upload an appropriate order via the Court's Lodged Order

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Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Marquis Campbell

Pro Se

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**2:20-12237 Christopher Paul Rabalais**

**Chapter 7**

**#7.00** HearingRE: [14] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 CHEVROLET IMPALA VIN 2G11Z5S3XJ9178335 . (Wang, Jennifer)

Docket 14

**Tentative Ruling:**

4/10/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the debtor stated an intention to surrender the property to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload

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**CONT...**      **Christopher Paul Rabalais**  
system within 7 days of the hearing.

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Christopher Paul Rabalais	Pro Se
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**Trustee(s):**

John P Pringle (TR)	Pro Se
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**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-16496 JW Wireless Inc.**

**Chapter 7**

Adv#: 2:18-01097 John J. Menchaca, Solely in his Capacity as Chapte v. CELLCO Partnership

**#1.00 Status Hearing**

RE: [117] Amended Complaint FIRST AMENDED COMPLAINT FOR: 1. Avoidance and Recovery of Constructive Fraudulent Transfer (Verizon) 2.Avoidance and Recovery of Preferential Transfer (BJ Mobile) 3.Avoidance and Recovery of Preferential Transfer (Jetworld) 4. Avoidance and Recovery of Preferential Transfer (JW OKC) 5. Avoidance and Recovery of Intentional Fraudulent Transfer (BJ Mobile) 6.Avoidance and Recovery of Constructive Fraudulent Transfer (BJ Mobile) 7. Avoidance and Recovery of Intentional Fraudulent Transfer (Jetworld) 8. Avoidance and Recovery of Constructive Fraudulent Transfer (Jetworld) 9.Avoidance and Recovery of Intentional Fraudulent Transfer (JW OKC) 10.Avoidance and Recovery of Constructive Fraudulent Transfer (JW OKC) 11. Avoidance and Recovery of Intentional Fraudulent Transfer (JWK Management) 12.Avoidance and Recovery of Constructive Fraudulent Transfer (JWK Management) 13. Avoidance and Recovery of Intentional Fraudulent Transfer (Jetstar Auto) 14.Avoidance and Recovery of Constructive Fraudulent Transfer (Jetstar Auto) 15.Avoidance and Recovery of Intentional Fraudulent Transfer (Ben Her) 16.Avoidance and Recovery of Constructive Fraudulent Transfer (Ben Her) 17. Avoidance and Recovery of Intentional Fraudulent Transfer (Lee) 18.Avoidance and Recovery of Constructive Fraudulent Transfer (Lee) 19. Substantive Consolidation (Jetworld, Jetstar Auto) 20.Declaratory Judgment: Alter Ego (Jetworld, Jetstar Auto, Ben Her, Lee) 21.Recovery of Unauthorized Distributions/Recharacterization as Equity (Jetworld, Lee) 22. Recovery of Unauthorized Distributions/Recharacterization as Equity (Joan Yu and Ben Her) 23. Recovery of Unauthorized Distributions/Recharacterization as Equity (Chu Feng Yu and Ben Her) 24. Turnover 25.Preservation of Avoided Transfers with Proof of Service by Thomas J Eastmond on behalf of John J Menchaca (TR) against all defendants. (RE: related document(s)1 Adversary case 2:18-ap-01097. Complaint by John J. Menchaca, Solely in his Capacity as Chapter 7 Trustee for the Bankruptcy Estate of JW Wireless, Inc. against CELLCO Partnership dba Verizon Wireless, a Delaware limited partnership, BJ Mobile, Inc., a California corporation, JETWORLD, Inc., a California corporation, JW Wireless OKC, an Oklahoma limited liability company, JWK Management, Inc., a California corporation, JETSTAR Auto Sports, Inc., a California corporation,



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**JW Wireless Inc.**

**Chapter 7**

Shaigan Ben Her, an individual, Lea Young Lee, an individual, Joan Yu, an individual, Chu Feng Yu, an individual, Carolyn Rhyoo, an individual. (Charge To Estate). with Adversary Cover Sheet and Summons and Notice of Status Conference Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)) filed by Plaintiff John J. Menchaca, Solely in his Capacity as Chapter 7 Trustee for the Bankruptcy Estate of JW Wireless, Inc.). (Eastmond, Thomas)

FR. 1-14-20

Docket 117

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-2-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

JW Wireless Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

CELLCO Partnership dba Verizon

Represented By  
Lawrence J Hilton  
Mark S Cander

BJ Mobile, Inc., a California

Represented By  
Kelvin J Lo

JETWORLD, Inc., a California

Represented By  
Gary M Jackson

JW Wireless OKC, an Oklahoma

Represented By  
Kelvin J Lo

JWK Management, Inc., a California

Represented By  
Michael H Yi

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**CONT... JW Wireless Inc.**

**Chapter 7**

JETSTAR Auto Sports, Inc., a

Represented By  
Gary M Jackson

Shaigan Ben Her, an individual

Represented By  
Kelvin J Lo

Lea Young Lee, an individual

Represented By  
Gary M Jackson

Joan Yu, an individual

Represented By  
Kelvin J Lo

Chu Feng Yu, an individual

Represented By  
Kelvin J Lo

Carolyn Rhyoo, an individual

Pro Se

**Plaintiff(s):**

John J. Menchaca, Solely in his

Represented By  
Thomas J Eastmond  
Robert P Goe

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Robert P Goe  
Thomas J Eastmond

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**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01397 Elissa D. Miller, solely in her capacity as chapte v. Allied Roofing and

**#2.00** Status Conference to Monitor Consummation of Settlement  
RE: [1] Adversary case 2:18-ap-01397. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Allied Roofing and Waterproofing, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

FR. 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 2-14-20**

**Tentative Ruling:**

8/8/2019

See Cal. No. 4, above, incorporated in full by reference.

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

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Allied Roofing and Waterproofing,

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

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**CONT... QUIGG LA11, LLC**

**Chapter 7**

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

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**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01408 Elissa D. Miller, solely in her capacity as chapte v. Cook Development

- #3.00** Status Conference to Monitor Consummation of Settlement  
RE: [1] Adversary case 2:18-ap-01408. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Cook Development Company, a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 1-14-20

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**\*\*\* VACATED \*\*\* REASON: DISMISSED 3-2-20**

**Tentative Ruling:**

8/8/2019

The Court notes that the Defendant, possibly in error, checked the box indicating that it does not consent to the Bankruptcy Court's entry of a final judgment. On March 20, 2019, the Court entered a Scheduling Order predicated upon the Defendant's consent to the Bankruptcy Court's entry of a final judgment. *See* Doc. No. 13 (the "Scheduling Order"). The Scheduling Order provides in relevant part:

Defendant has timely demanded a jury trial in this avoidance action, has not filed a proof of claim against the estate, and consents to having the jury trial conducted by the Bankruptcy Court. Under these circumstances, Defendant is entitled to a jury trial. *See Langenkamp v. Culp*, 498 U.S. 42, 45 (1990) ("If a party does *not* submit a claim against the bankruptcy estate, however, the trustee can recover allegedly preferential transfers only by filing what amounts to a legal action to recover a monetary transfer. In those circumstances the preference defendant is entitled to a jury trial."). Because both Plaintiff and Defendant have consented to the Bankruptcy Court's entry of final judgment, the jury trial will be conducted by the Bankruptcy Court. *See* Bankruptcy Rule 9015(b) (stating that the Bankruptcy Court may conduct a jury trial only with

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**CONT...**      **QUIGG LA11, LLC**  
the consent of all parties).

**Chapter 7**

Scheduling Order at ¶ 1.

Defendant is not allowed to withdraw its consent to the Bankruptcy Court's entry of a final judgment at this stage of the proceedings.

On March 20, 2019, the Court ordered the Chapter 7 Trustee (the "Trustee") to submit an order assigning this matter to mediation (the "Mediation Order"). Doc. No. 31. The Trustee failed to submit the Mediation Order. On June 26, 2019, the Court once again ordered the Trustee to submit the Mediation Order. Doc. No. 17. The Mediation Order has not yet been submitted.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The Trustee shall submit the Mediation Order by no later than **August 27, 2019**. If the Trustee does not comply with this deadline, the Court will require the Trustee to appear and show cause why this action should not be dismissed for failure to prosecute, pursuant to Civil Rule 41.
- 2) Defendant shall be deemed to have consented to the Bankruptcy Court's entry of a final judgment in this action.
- 3) The litigation deadlines previously ordered shall continue to apply, subject to an extension for good cause shown.
- 4) Absent further order of the Court, no further Status Conferences will be conducted.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By

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CONT... QUIGG LA11, LLC

**Chapter 7**

David M Reeder

**Defendant(s):**

Cook Development Company, a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

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**2:17-18597 Base Architecture Planning & Engr Inc.**

**Chapter 7**

Adv#: 2:20-01005 Gonzalez v. Anderson

**#4.00** Status Hearing RE: [1] Adversary case 2:20-ap-01005. Complaint by Rosendo Gonzalez against Michael H. Anderson. (Charge To Estate). Complaint: (1) To Avoid Fraudulent Transfers Pursuant To 11 U.S.C. §§ 544 and 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; and, (3) Automatic Preservation of Avoided Transfer Pursuant To 11 U.S.C. § 551 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Gonzalez, Rosendo)

Docket 1

**Tentative Ruling:**

**4/13/2020: Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the Joint Status Report filed by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Defendant has timely demanded a jury trial in this avoidance action, has not filed a proof of claim against the estate, and consents to having the jury trial conducted by the Bankruptcy Court. Under these circumstances, Defendant is entitled to a jury trial. *See Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33 (1989) (holding that a defendant to a fraudulent transfer action who has not filed a proof of claim has a right to a jury trial). Because both Plaintiff and Defendant have consented to the Bankruptcy Court's entry of final judgment, the jury trial will be conducted by the Bankruptcy Court. *See* Bankruptcy Rule 9015(b) (stating that the Bankruptcy Court may conduct a jury trial only with the consent of all parties).
- 2) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **5/14/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **9/01/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert



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**Base Architecture Planning & Engr Inc.**

**Chapter 7**

witness reports is **10/01/2020**.

- d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **10/20/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **10/27/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **10/31/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **11/17/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion

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in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(2)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(2)(h)(ii), and shall be filed by the deadline specified in ¶(2)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
  - i) A jury trial is set for the week of **11/30/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 3) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.**

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**CONT... Base Architecture Planning & Engr Inc. Chapter 7**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Base Architecture Planning & Engr	Represented By M. Jonathan Hayes
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**Defendant(s):**

Michael H. Anderson	Pro Se
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**Plaintiff(s):**

Rosendo Gonzalez	Represented By Rosendo Gonzalez
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**Trustee(s):**

Rosendo Gonzalez (TR)	Represented By Rosendo Gonzalez
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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01399 Mastan, Chapter 7 Trustee v. Hwang

**#5.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01399. Complaint by Peter J. Mastan, Chapter 7 Trustee against Hyun Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 12-4-19; 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-12-20 AT 10:00 AM.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the “Trustee”) commenced this fraudulent transfer action against Hyun Hwang (the “Defendant”) on September 14, 2019. On December 11, 2019, the Court denied the Defendant’s Motion to Dismiss, and ordered the Defendant to file an Answer by no later than January 21, 2020. Doc. No. 25. Defendant timely filed an Answer. The Trustee seeks leave to file a First Amended Complaint to allege an additional \$80,000 transfer from the Debtor to the Defendant.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In the event that Defendant declines to stipulate to the filing of a First Amended Complaint, the Trustee shall file a motion for leave to amend by no later than **March 10, 2020**.
- 2) A continued Status Conference is set for **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.

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**CONT... Keystone Textile, Inc.**

**Chapter 7**

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Hyun Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01402 Mastan, Chapter 7 Trustee v. Hwang et al

**#6.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01402. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Trigen Int'l, Inc., Beyond Textile, Inc., Does 1 - 10, inclusive. (Charge To Estate). COMPLAINT FOR: (1) AVOIDANCE OF ACTUAL FRAUDULENT TRANSFERS [11 U.S.C. 544(b), 548(a)(1)(A), And 550(a), And Cal. Civ. Code §§ 3439.04(a) And 3439.07]; (2) AVOIDANCE OF CONSTRUCTIVE FRAUDULENT TRANSFERS [11 U.S.C. §§ 544(b), 548(a)(1) (B), And 550(a), And Cal. Civ. Code §§ 3439.04(b) Or 3439.05 And Cal. Civ. Code § 3439.07] (3) CONSPIRACY TO DEFRAUD [11 U.S.C. § 105(a)] (4) FOR RECOVERY OF ILLEGAL DIVIDENDS [Cal. Corp. Code §§ 500, 501 And 506] (5) FOR BREACH OF FIDUCIARY DUTY; AND (6) RECOVERY OF AVOIDED TRANSFER [11 U.S.C. § 550(a)] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (14 (Recovery of money/property - other)) (Triplett, Meghann)

fr. 11-19-19; 2-11-20

Docket 1

**Tentative Ruling:**

4/13/2020:

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Prosecution of this avoidance action against Defendant Kenny Hwang was stayed by Hwang's filing of a Chapter 7 voluntary petition on September 19, 2019 (Case No. 2:19-bk-21045-BR). The Trustee voluntarily dismissed Defendants Trigen Int'l, Inc. and Beyond Textile, Inc. on March 11, 2020. Doc. Nos. 33-34. The Trustee has not moved for stay relief in Hwang's bankruptcy case.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

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**CONT... Keystone Textile, Inc.**

**Chapter 7**

- 1) A continued Status Conference is set for **July 14, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Trigen Int'l, Inc.

Pro Se

Beyond Textile, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**CONT... Keystone Textile, Inc.**

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10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01369 Mastan, Chapter 7 Trustee v. S & H Design, Inc.

**#7.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01369. Complaint by Peter J. Mastan, Chapter 7 Trustee against S & H Design, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

fr: 11-19-19; 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-27-20**

**Tentative Ruling:**

11/18/2019

Default was entered against the only Defendant in this matter on October 29, 2019. Having reviewed Plaintiff's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") by no later than **January 10, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are **VACATED**.
- 3) A continued Status Conference shall be held on **February 11, 2020, at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than seven days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel

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**CONT... Tbetty, Inc.**

**Chapter 7**

Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

S & H Design, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01370 Mastan, Chapter 7 Trustee v. Royal Textile Print, Inc.

**#8.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01370. Complaint by Peter J. Mastan, Chapter 7 Trustee against Royal Textile Print, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/13/2020

The parties having reached a settlement, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by the Court are **VACATED**.
- 2) A continued Status Conference to monitor consummation of the settlement shall be held on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. In the event the settlement has been consummated, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**United States Bankruptcy Court  
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Los Angeles  
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CONT... Tbetty, Inc.

Chapter 7

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Royal Textile Print, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01375 Mastan, Chapter 7 Trustee v. JM Story, Inc.

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01375. Complaint by Peter J. Mastan, Chapter 7 Trustee against JM Story, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

2/10/2020

Default was entered against the only Defendant in this matter on October 29, 2019. On November 25, 2019, the Court ordered the Chapter 7 Trustee (the "Trustee") to file a Motion for Default Judgment (the "Motion") against the Defendant by no later than January 10, 2020. As of the date of issuance of this tentative ruling, the Motion has not been filed.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The Trustee shall file the Motion by no later than **March 10, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o). If the Trustee does not comply with this deadline, the Court will issue an order requiring the Trustee to show cause why this action should not be dismissed for failure to prosecute.
- 2) A continued Status Conference is set for **April 14, 2020, at 10:00 a.m.** A Joint Status Report, which shall discuss the status Hwang's Chapter 7 case, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an appropriate order.

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Los Angeles  
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**CONT... Tbetty, Inc.**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JM Story, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01389 Mastan v. SYC Fabric, Inc.

**#10.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01389. Complaint by Peter Mastan against SYC Fabric, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/13/2020

The parties having reached a settlement, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by the Court are **VACATED**.
- 2) A continued Status Conference to monitor consummation of the settlement shall be held on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. In the event the settlement has been consummated, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic

**United States Bankruptcy Court  
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**CONT... Tbetty, Inc.**

**Chapter 7**

appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

SYC Fabric, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01390 Mastan v. Traben USA, Inc.

**#11.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01390. Complaint by Peter Mastan against Traben USA, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 AM.**

**Tentative Ruling:**

1/13/2020

The parties having reached a settlement, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by the Court are **VACATED**.
- 2) A continued Status Conference to monitor consummation of the settlement shall be held on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. In the event the settlement has been consummated, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Traben USA, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01257 Ehrenberg, Chapter 7 Trustee v. Hsu

**#12.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01257. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lung Hsiang Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

fr. 10-15-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-2-20**

**Tentative Ruling:**

1/13/2020

The Defendant currently lives in China. The Chapter 7 Trustee (the "Trustee") does not know Defendant's whereabouts in China. The Trustee has been unable to serve the Summons and Complaint upon the Defendant. The Trustee has filed separate actions against both George Hsu and Lillian Hsu, and is currently seeking entry of default judgment in both of those proceedings. The Trustee anticipates that resolution of the actions against George Hsu and Lillian Hsu could result in a return of some of the transfers at issue in this proceeding. The Trustee asserts that at the moment, recovery of the transfers against George Hsu and Lillian Hsu is the most economic means of prosecuting this action.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Pursuant to the Trustee's request, a continued Status Conference shall be held on **April 14, 2020, at 10:00 a.m.**
- 2) The Trustee shall file a Status Report by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

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**CONT... Fu Kong Inc.**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lung Hsiang Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20111 Jeremy Wyatt LeClair**

**Chapter 7**

Adv#: 2:18-01425 Cortes v. LeClair

**#13.00 Status Conference**

RE: [1] Adversary case 2:18-ap-01425. Complaint by Alvaro Cortes against Jeremy Wyatt LeClair. false pretenses, false representation, actual fraud)),(11 (Recovery of money/property - 542 turnover of property)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Weissman, I)

fr. 5-15-19; 11-13-19

Docket 1

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

In this action, Plaintiff alleges that a judgment entered on March 28, 2017 against Defendant in the amount of \$590,908.50 in the Los Angeles Superior Court (the "State Court Judgment") is non-dischargeable pursuant to § 523(a)(2)(A) and (a)(6). Plaintiff further alleges that Defendant's discharge should be denied, pursuant to § 727(a)(2)(A).

On October 8, 2019, Defendant filed a *Complaint for Independent Action in Equity to Set Aside and Vacate Default and Default Judgment for Lack of Personal Jurisdiction* in the State Court (the action commenced by the filing of such complaint, the "State Court Collateral Attack Action"). The State Court Collateral Attack Action seeks to vacate the State Court Judgment for lack of personal jurisdiction, and alleges that service of the State Court Complaint was defective.

On November 15, 2019, the Court granted Defendant's motion to stay this action pending resolution of the State Court Collateral Attack Action. Doc. No. 57.

A case management conference in the State Court Collateral Attack Action is set

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**CONT... Jeremy Wyatt LeClair Chapter 7**

for May 6, 2020. Discovery has not been initiated in the State Court Collateral Attack Action.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **September 15, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which shall discuss the status of the State Court Collateral Attack Action, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Defendant(s):**

Jeremy Wyatt LeClair

Pro Se

**Plaintiff(s):**

Alvaro Cortes

Represented By  
I Donald Weissman

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01111 Danny's Silver Jewelry Inc., a California cor v. Zendedel

**#14.00** HearingRE: [30] Motion to Intervene in Adversary Proceeding (Yip, Hatty)

Docket 30

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the UST's Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) United States Trustee's Notice of Motion and Motion to Intervene in Adversary Proceeding [Doc. No. 30] (the "Motion")
- 2) Stipulation for Orders for: (A) Entry of Judgment on 11 U.S.C. § 523 Causes of Action; and (B) Dismissal of 11 U.S.C. § 727 Causes of Action (the "Stipulation"); and Notice of Intent to Dismiss 11 U.S.C. Causes of Action in Accordance with Federal Rules of Bankruptcy Procedures and Local Bankruptcy Rule 9013-1(f) (the "Notice") [Doc. No. 25]
- 3) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On April 18, 2019, Danny's Silver Jewelry, Inc. ("Plaintiff") filed a *Complaint to Determine Dischargeability of a Debt and Objection to Discharge* [Doc. No. 1] (the "Complaint") against Bahram Zendedel aka Robert Zendedel ("Defendant"). The Complaint asserts claims under § 523(a)(2)(A), (a)(4), and (a)(6) and under § 727(a)(2)(A), (a)(3), and (a)(5).

On February 28, 2020, Plaintiff and Defendant filed a stipulation providing for settlement of the § 523 claims and dismissal of the § 727 claims (the "Stipulation"). In settlement of the § 523 claims, Plaintiff and Defendant stipulated to (1) a judgment in

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**CONT... Bahram Zendedel**

**Chapter 7**

the amount of \$37,600.61 in favor of Plaintiff and (2) dismissal of the § 727 claims. Pursuant to Bankruptcy Rule 7041, Plaintiff provided notice of the Stipulation to the United States Trustee (the “UST”) and all creditors (the “Notice”). The Notice explained that “any creditor or other party in interest has the right to substitute in and become the plaintiff in connection with the 11 U.S.C. § 727 ... cause of action.” Notice at 3.

The UST seeks permissive intervention for the purpose of prosecuting the § 727 claims. No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Bankruptcy Rule 7041 provides:

[Civil Rule 41] applies in adversary proceedings, except that a complaint objecting to the debtor’s discharge shall not be dismissed at the plaintiff’s instance without notice to the trustee, the United States trustee, and such other persons as the court may direct, and only on order of the court containing terms and conditions which the court deems proper.

A plaintiff who prevails upon § 727 claims “provides a benefit to all creditors in the case, because the debtor’s discharge is denied in full.” *Bankruptcy Receivables Management v. Armond (In re de Armond)*, 240 B.R. 51, 57 (Bankr. C.D. Cal. 1999). Consequently, “a creditor who commences an adversary proceeding under § 727 becomes, in that respect, a fiduciary on behalf of all creditors.” *Id.*

The Bankruptcy Code authorizes the United States Trustee to object to a Chapter 7 discharge. § 727(c)(1). “It is a responsibility of the United States trustee, as one facet of assuring that the bankruptcy laws are not being abused, to assure that persons who are not entitled to receive discharges do not receive them. Thus, the United States trustee has special competence and cannot be ignored in a matter in which the question is whether to permit a discharge.” *Speece v. Speece Properties (In re Speece)*, 159 B.R. 314, 317 (Bankr. E.D. Cal. 1993).

The Court finds that authorizing the UST to permissively intervene for the purpose of prosecuting the § 727 claims is appropriate. By prosecuting the § 727 claims, the UST is fulfilling his statutory obligation of preserving the integrity of the bankruptcy system.

It is not clear from the Stipulation whether the settlement of Plaintiff’s § 523



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**CONT...**

**Bahram Zendedel**

**Chapter 7**

claims is contingent upon dismissal of the § 727 claims. Within fourteen days of the hearing, Plaintiff shall file a notice stating whether the parties intend to adhere to the remaining terms of the § 523 settlement notwithstanding the fact that the § 727 claims have not been dismissed. In the event that the parties do not elect to adhere to the remaining terms of the § 523 settlement, the Court will set litigation deadlines regarding the § 523 claims at the Status Conference set for May 12, 2020.

With respect to litigation of the § 727 claims, the following deadlines shall apply:

- a) The last day to amend pleadings and/or join other parties is **5/14/2020**.
- b) The last day to disclose expert witnesses and expert witness reports is **9/01/2020**.
- c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **10/01/2020**.
- d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **10/20/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **10/27/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **10/31/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **11/17/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.

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CONT...

**Bahram Zendedel**

**Chapter 7**

- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
- i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
  - iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(h)(ii), and shall be filed by the deadline specified in ¶(1)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **11/30/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

### III. Conclusion

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**CONT... Bahram Zendedel**

**Chapter 7**

Based upon the foregoing, the UST's Motion is **GRANTED**. The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian  
Nico N Tabibi

**Plaintiff(s):**

Danny's Silver Jewelry Inc., a

Represented By  
Nico N Tabibi  
Khachik Akhkashian

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
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Los Angeles  
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**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01453 Mastan (TR) v. Zendedel

**#15.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01453. Complaint by Peter J. Mastan (TR) against Nazila Zendedel. (Charge To Estate). Complaint for: (1) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.07]; (2) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.05, 3439.07]; (3) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (4) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (5) Turnover of Property [11 U.S.C. § 362] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)),(91 (Declaratory judgment)) (Mang, Tinho)

fr. 1-14-20

Docket 1

**Tentative Ruling:**

4/13/2020

See Cal. No. 15.10, below, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Nazila Zendedel

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Bahram Zendedel**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01453 Mastan (TR) v. Zendedel

**#15.10** Hearing  
RE: [26] Motion to Consolidate Lead Case 2:19-ap-01453-ER with 2:20-  
ap-01062-ER

Docket 26

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Trustee's Motion to Consolidate is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion to Consolidate Adversary Proceedings [filed as Doc. No. 26 in Adv. No. 2:19-ap-01453-ER and as Doc. No. 10 in Adv. No. 2:20-ap-01062-ER]
- 2) Joint Status Report [Doc. No. 28, Adv. No. 2:19-ap-01453-ER]

**I. Facts and Summary of Pleadings**

On January 18, 2019 (the "Petition Date"), Bahram Zendedel ("Debtor") filed a voluntary Chapter 7 petition. Debtor scheduled a community interest in real property located at 1712 Livonia Avenue, Los Angeles, CA 90035 (the "Property").

On May 16, 2018 (prior to the Petition Date), Debtor executed a quitclaim deed transferring the Property to Nazila Zendedel ("Nazila") [**Note 1**] as her sole and separate property.

On May 28, 2019, the Chapter 7 Trustee (the "Trustee") filed a complaint against Nazila, seeking to avoid and recover the transfer of the Property (the "Nazila Complaint"). As an affirmative defense, Nazila asserts that there is no equity in the

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**CONT...**

**Bahram Zendedel**

**Chapter 7**

Property because it is encumbered by lien in favor of Pedram Shamekh (“Shamekh,” and the lien in favor of Shamekh, the “Shamekh Lien”).

On March 12, 2020, the Trustee filed a complaint against Shamekh, seeking to avoid the Shamekh Lien (the “Shamekh Complaint”). Among other things, the Shamekh Complaint alleges that the Shamekh Lien is avoidable as a preferential transfer.

The Trustee moves to consolidate the Nazila Complaint and the Shamekh Complaint. The Trustee asserts that consolidation is appropriate because both proceedings involve common issues of fact, including whether the Debtor had fraudulent intent when transferring the Property to Navila and allowing Shamekh to record a lien against the Property.

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Civil Rule 42 provides in relevant part: “If actions before the court involve a common question of law or fact, the court may ... consolidate the actions.” In determining whether to consolidate proceedings, “a court weighs the interest of judicial convenience against the potential for delay, confusion, and prejudice caused by consolidation.” *Sw. Marine, Inc. v. Triple A Mach. Shop, Inc.*, 720 F. Supp. 805, 806–07 (N.D. Cal. 1989).

Consolidation of the Nazila Complaint and Shamekh Complaint serves the interests of judicial economy. Both actions concern the same Property and involve common issues of fact regarding whether various transfers facilitated by the Debtor were done with fraudulent intent. The Court will set common litigation deadlines for both actions and consolidate the trial of the actions. To avoid confusion, the Court will continue to maintain separate dockets for the Nazila Complaint and Shamekh Complaint.

The following litigation deadlines shall apply to both actions:

- a) A continued Status Conference is set for **6/16/2020 at 10:00 a.m.**
- b) The last day to amend pleadings and/or join other parties is **7/16/2020**.
- c) The last day to disclose expert witnesses and expert witness reports is **10/27/2020**.
- d) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **11/26/2020**.
- e) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to

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**Bahram Zendedel**

**Chapter 7**

- expert discovery, is **12/15/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- f) The last day for dispositive motions to be heard is **12/22/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - g) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **12/26/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - h) A Pretrial Conference is set for **1/12/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - i) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that



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CONT...

**Bahram Zendedel**

**Chapter 7**

will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(i)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(i)(ii), and shall be filed by the deadline specified in ¶(i)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **1/25/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

The Court will prepare and enter Scheduling Orders and orders consolidating the actions.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**CONT... Bahram Zendedel**

**Chapter 7**

**Defendant(s):**

Nazila Zendedel

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:20-01062 Mastan (TR) v. Shamekh

**#15.20** Hearing re [10] Motion To Consolidate Adversary Proceedings

Docket 0

**Tentative Ruling:**

4/13/2020

See Cal. No. 15.10, above, incorporated in full by reference.

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Pedram Shamekh

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, April 14, 2020**

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10:00 AM

**2:19-14464 Kevin Garnier**

**Chapter 7**

Adv#: 2:19-01234 Li v. Garnier

**#16.00** Status Conference RE: [1] Adversary case 2:19-ap-01234. Complaint by Qi Li against Kevin Garnier. false pretenses, false representation, actual fraud)) (Wolk, Sarah)

fr. 10-15-19; 11-19-19

Docket 1

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 15, 2019, the Court stayed this action pending resolution of the state court action giving rise to the indebtedness alleged to be non-dischargeable (the "State Court Action"). Trial in the State Court Action is set for August 24, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **October 13, 2020, at 10:00 a.m.****
- 2) A Joint Status Report, which shall discuss the status of the State Court Action, shall be submitted by no later than fourteen days prior to the hearing.**

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.**

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**CONT... Kevin Garnier**

**Chapter 7**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Qi Li

Represented By  
Sarah R Wolk  
Zachary Levine

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

- #17.00** Status Hearing  
RE: [29] **Second Amended** Complaint Objecting to Discharge Pursuant to 11 USC 523 (a)2(A) and (6) by Michael N Berke on behalf of Miguel Hernandez Cruz against Shamim Ahemmed. (Berke, Michael)

Docket 29

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the Joint Status Report filed by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **5/14/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **9/01/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **10/01/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **10/20/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)

**United States Bankruptcy Court  
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CONT...

**Shamim Ahemmed**

**Chapter 7**

- e) The last day for dispositive motions to be heard is **10/27/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **10/31/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **11/17/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject

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CONT...

**Shamim Ahemmed**

**Chapter 7**

- the moving party to sanctions.
- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
  - i) Trial is set for the week of **11/30/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) The parties state that settlement is not likely, based upon the fact that Defendant does not have the ability to satisfy the underlying judgment giving rise to the indebtedness alleged to be non-dischargeable. Notwithstanding this representation, the matter shall be referred to the Mediation Panel. Mediation is a crucial component of the adjudicative process. It enables the parties to discuss the issues raised by the litigation before a neutral arbiter who is well-qualified to assist in dispute resolution. The Court's Mediation Program allows parties to attend one day of mediation for free. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic



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**CONT... Shamim Ahemmed**

**Chapter 7**

appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Represented By  
Lawrence R Fieselman  
Julie J Villalobos

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
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**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#18.00** Status Hearing  
RE: [10] **Counterclaim** by Gregory Tardaguila against Ann Tardaguila as Trustee of the Tardaguila Living Trust dated 07-16-1999, Ann Tardaguila (Altholz, Andrew)

Docket 10

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On December 8, 2019, Ann Tardaguila, as Trustee of the Tardaguila Living Trust dated June 16, 1999 (the "Plaintiff/Counter-defendant"), filed this non-dischargeability action against Gregory Tardaguila (the "Defendant/Counter-claimant"). Plaintiff/Counter-defendant alleges that she loaned Defendant/Counter-claimant in excess of \$750,000; that Defendant/Counter-claimant failed to repay the indebtedness; and that Defendant/Counter-claimant committed actual fraud by diverting funds that could have been used to repay the indebtedness. The Complaint seeks a judgment that the indebtedness is non-dischargeable pursuant to § 523(a)(2)(A) and (a)(6), and seeks denial of Defendant/Counter-claimant's discharge pursuant to § 727(a)(2), (3), (4)(A), and (5).

Defendant/Counter-claimant filed a Counterclaim, in which he alleges that the note evidencing the indebtedness at issue in the Complaint (the "Note") is a sham that was created to change the character of the transaction from a gift to a loan. The Counterclaim alleges that the \$750,000 loaned to Defendant/Counter-claimant was an advance upon his inheritance. The Counterclaim further alleges that the Defendant/Counter-claimant did not sign the Note until several years after the funds were advanced and that Defendant/Counter-claimant was induced to sign the Note under false pretenses. The Counterclaim (1) objects to any claim against the estate on

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**CONT...**

**Gregory Tardaguila**

**Chapter 7**

account of the Note asserted by Plaintiff/Counter-defendant; (2) seeks cancellation of the Note; and (3) seeks damages for fraud and negligent misrepresentations.

On January 16, 2020, the Court entered an order providing that the litigation deadlines set for the Counterclaim would also apply to the Complaint. Doc. No. 21.

On February 28, 2020, the Court entered an order (1) designating the first and second counterclaims as affirmative defenses to be litigated in connection with the Complaint, (2) finding that the third and fourth counterclaims for fraud and negligent misrepresentation (the "Fraud Counterclaims") accrued prepetition, were property of the bankruptcy estate, and could be prosecuted only by the Chapter 7 Trustee (the "Trustee"), (3) directing the Trustee to file a notice stating whether he intended to prosecute the Fraud Counterclaims by no later than March 13, 2020, and (4) dismissing the Fraud Counterclaims, but giving the Trustee leave to amend should he elect to prosecute the Fraud Counterclaims. Doc. No. 31. The Court subsequently extended the Trustee's deadline to determine whether to prosecute the Fraud Counterclaims to April 15, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In view of the extension of the Trustee's deadline to determine whether to prosecute the Fraud Counterclaims, a continued Status Conference shall be held on **June 16, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Gregory Tardaguila

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

CONT... Gregory Tardaguila

Chapter 7

Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Represented By  
Andrew P Altholz

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
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**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#19.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01503. Complaint by Ann Tardaguila against Gregory Tardaguila. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Mitnick, Eric)

fr. 3-10-20

Docket 1

**Tentative Ruling:**

4/13/2020

See Cal. No. 18, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#20.00 TELEPHONIC Status Hearing**

RE: [30] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19; 1-8-20; 2-19-20

fr. 12-19-19

Docket 30

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Steven J Kahn  
Nicholas A Koffroth

**Defendant(s):**

U.S. Bank National Association

Represented By  
Jason D Strabo  
Clark Whitmore  
Jason M Reed  
Megan Preusker  
Nathan F Coco  
Mark Shinderman

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
James Cornell Behrens  
Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#21.00 TELEHONIC Status Hearing**

RE: [28] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property)),91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19; fr. 12-19-19; 1-8-20; 2-19-20

Docket 28

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

4/13/2020

Order entered. Status Conference **CONTINUED to July 14, 2020, at 10:00 a.m.**

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Represented By  
Abigail V O'Brient

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01001 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#22.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01001. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, St Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company against Kali P. Chaudhuri, M.D., an individual, Strategic Global Management, Inc., a California corporation, KPC Healthcare Holdings, Inc., a California Corporation, KPC Health Plan Holdings, Inc., a California Corporation, KPC Healthcare, Inc., a Nevada Corporation, KPC Global Management, LLC, a California Limited Liability Company. (Charge To Estate). Complaint for Breach of Contract, Promissory Fraud, and Tortious Breach of Contract (Breach of Implied Covenant of Good Faith and Fair Dealing) Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Maizel, Samuel)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-3-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Steven J Kahn  
Nicholas A Koffroth  
Rosa A Shirley

**Defendant(s):**

Kali P. Chaudhuri, M.D., an	Pro Se
Strategic Global Management, Inc.,	Pro Se
KPC Healthcare Holdings, Inc., a	Pro Se
KPC Health Plan Holdings, Inc., a	Pro Se
KPC Healthcare, Inc., a Nevada	Pro Se
KPC Global Management, LLC, a	Pro Se
Does 1 through 500	Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF	Represented By Samuel R Maizel Tania M Moyron
ST. VINCENT MEDICAL	Represented By Samuel R Maizel Tania M Moyron
St Vincent Dialysis Center, Inc., a	Represented By Samuel R Maizel Tania M Moyron
ST. FRANCIS MEDICAL	Represented By Samuel R Maizel Tania M Moyron
Seton Medical Center, a California	Represented By Samuel R Maizel Tania M Moyron
Verity Holdings, LLC, a California	Represented By Samuel R Maizel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Tania M Moyron

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20698 United International Mortgage Solutions, Inc.**

**Chapter 11**

Adv#: 2:19-01433 United International Mortgage Solutions, Inc. v. HERNDON et al

**#23.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01433. Complaint by United International Mortgage Solutions, Inc. against SHERWOOD HERNDON, an individual. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

fr. 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-14-20**

**Tentative Ruling:**

1/13/2020

Default was entered against the Defendant on November 15, 2019. Doc. No. 14. Having reviewed Plaintiff's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") by no later than **February 14, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are VACATED.
- 3) A continued Status Conference shall be held on **April 14, 2020, at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear,**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... United International Mortgage Solutions, Inc. Chapter 11**

**please first contact opposing counsel to inform them of your intention to do so.**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

United International Mortgage

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

**Defendant(s):**

SHERWOOD HERNDON

Pro Se

All Persons or Entities Unknown

Pro Se

DOES 1 to 100, inclusive

Pro Se

**Plaintiff(s):**

United International Mortgage

Represented By

Matthew D. Resnik

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01434 United International Mortgage Solutions, Inc. v. WALTER WALLACE, an

**#24.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01434. Complaint by United International Mortgage Solutions, Inc. against WALTER WALLACE, an individual, KENYATTA MONIFA, an individual. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

Fr. 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-14-20**

**Tentative Ruling:**

1/13/2020

Default was entered against both Defendants on November 15, 2019. Doc. Nos. 18–19. Having reviewed Plaintiff’s Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall file a Motion for Default Judgment (the "Motion") by no later than **February 14, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are VACATED.
- 3) A continued Status Conference shall be held on **April 14, 2020, at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... United International Mortgage Solutions, Inc. Chapter 11**

Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

United International Mortgage	Represented By Matthew D. Resnik Roksana D. Moradi-Brovia
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**Defendant(s):**

WALTER WALLACE, an individual	Pro Se
KENYATTA MONIFA, an	Pro Se
DOES 1 to 10 Inclusive	Pro Se
All Persons or Entities Unknown	Pro Se

**Plaintiff(s):**

United International Mortgage	Represented By Matthew D. Resnik
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-16496 JW Wireless Inc.**

**Chapter 7**

Adv#: 2:18-01097      John J. Menchaca, Solely in his Capacity as Chapte v. CELLCO Partnership

**#100.00** Pre-Trial Conference  
RE: [117] First Amended Complaint re Adversary case 2:18-ap-01097.  
Complaint by John J. Menchaca, Solely in his Capacity as Chapter 7 Trustee for the Bankruptcy Estate of JW Wireless, Inc. against CELLCO Partnership dba Verizon Wireless, a Delaware limited partnership, BJ Mobile, Inc., a California corporation, JETWORLD, Inc., a California corporation, JW Wireless OKC, an Oklahoma limited liability company, JWK Management, Inc., a California corporation, JETSTAR Auto Sports, Inc., a California corporation, Shaigan Ben Her, an individual, Lea Young Lee, an individual, Joan Yu, an individual, Chu Feng Yu, an individual, Carolyn Rhyoo, an individual. (Charge To Estate). with Adversary Cover Sheet and Summons and Notice of Status Conference Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property))

Docket      0

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE TO BE HEARD  
AT 10:00 A.M. TODAY**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

JW Wireless Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

CELLCO Partnership dba Verizon

Represented By  
Lawrence J Hilton  
Mark S Cander

BJ Mobile, Inc., a California

Represented By  
Kelvin J Lo

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... JW Wireless Inc. Chapter 7**

JETWORLD, Inc., a California Represented By  
Gary M Jackson

JW Wireless OKC, an Oklahoma Represented By  
Kelvin J Lo

JWK Management, Inc., a California Represented By  
Michael H Yi

JETSTAR Auto Sports, Inc., a Represented By  
Gary M Jackson

Shaigan Ben Her, an individual Represented By  
Kelvin J Lo

Lea Young Lee, an individual Represented By  
Gary M Jackson

Joan Yu, an individual Represented By  
Kelvin J Lo

Chu Feng Yu, an individual Represented By  
Kelvin J Lo

Carolyn Rhyoo, an individual Pro Se

**Plaintiff(s):**

John J. Menchaca, Solely in his Represented By  
Thomas J Eastmond  
Robert P Goe

**Trustee(s):**

John J Menchaca (TR) Represented By  
Robert P Goe  
Thomas J Eastmond

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-11795 Alana Gershfeld**

**Chapter 7**

Adv#: 2:19-01052 Dye v. Khasin et al

**#101.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01052. Complaint by Carolyn A Dye against Maria Khasin, Larry A. Khasin, M & L Living Trust. (Charge To Estate).  
Complaint: (1) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. §§ 544 And 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; And,(3) Automatic Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551  
Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))  
(Gonzalez, Rosendo)

FR. 1-14-20

FR 7-16-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Alana Gershfeld

Represented By  
Alla Tenina

**Defendant(s):**

Maria Khasin

Pro Se

Larry A. Khasin

Pro Se

M & L Living Trust

Pro Se

**Plaintiff(s):**

Carolyn A Dye

Represented By  
Rosendo Gonzalez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Alana Gershfeld**

**Chapter 7**

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Rosendo Gonzalez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, April 14, 2020

Hearing Room 1568

11:00 AM

**2:18-20374 Jenny Melendez**

**Chapter 7**

Adv#: 2:18-01429 Wesley H. Avery, Chapter 7 Trustee of the Bankrupt v. Jenny Melendez, an

**#102.00** Pre-Trial Conference  
RE: [1] Adversary case 2:18-ap-01429. Complaint by Wesley H. Avery, Chapter 7 Trustee of the Bankruptcy Estate of Jenny Melendez against Jenny Melendez, an individual, Clara E. Melendez. (Charge To Estate). Trustee's Complaint for: 1) A Declaratory Judgment Regarding Property of the Bankruptcy Estate; 2) Turnover; 3) Injunctive Relief; and 4) Sale of a Property in Which a Non-Debtor Asserts an Interest Nature of Suit: (91 (Declaratory judgment)),(11 (Recovery of money/property - 542 turnover of property)),(72 (Injunctive relief - other)),(31 (Approval of sale of property of estate and of a co-owner - 363(h))) (Lin, Zi)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-25-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jenny Melendez

Represented By  
Randolph R Ramirez

**Defendant(s):**

Jenny Melendez, an individual

Pro Se

Clara E Melendez, an individual

Pro Se

DOES 1-20

Pro Se

**Plaintiff(s):**

Wesley H. Avery, Chapter 7 Trustee

Represented By  
Adjoa Anim-Appiah  
Zi Chao Lin

**Trustee(s):**

Wesley H Avery (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Jenny Melendez**

Zi Chao Lin

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01110      Nguyen dba Sam Bullion & Coin v. Zendedel

**#103.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01110. Complaint by Sam Thuy Nguyen dba Sam Bullion & Coin against Bahram Zendedel. 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)) (Tabibi, Nico)

fr: 3-10-20

Docket      1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT ENTERED 9-27-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Sam Thuy Nguyen dba Sam Bullion

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01111 Danny's Silver Jewelry Inc., a California cor v. Zendedel

**#104.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01111. Complaint by Danny's Silver Jewelry Inc., a California corporation, dba Danny's Silver, Inc., dba Danny's Silver & Gold against Bahram Zendedel. 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)) (Tabibi, Nico)

fr: 3-10-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 5-12-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Danny's Silver Jewelry Inc., a

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#105.00** Pre-Trial Conference  
RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 5-14-19; 2-11-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By  
Samuel R Maizel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

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11:00 AM

CONT... Verity Health System of California, Inc.

**Chapter 11**

John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#106.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property),91 (Declaratory judgment)) (Shinderman, Mark)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PRETRIAL RE AMENDED COMPLAINT  
7/14/20 A 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**Defendant(s):**

U.S. Bank National Association

Pro Se

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, April 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#107.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property),91 (Declaratory judgment)) (Shinderman, Mark)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PRETRIAL RE AMENDED COMPLAINT  
7-14-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Pro Se

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-13731 Samuel Antonio Acevedo and Lucy Acevedo**

**Chapter 11**

**#1.00** Hearing re [102] Confirmation of the Debtors' Chapter 11 Plan of Reorganization

FR. 7-17-19; 9-4-19; 10-16-19; 1-15-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-3-20**

**Tentative Ruling:**

1/14/2020

For the reasons set forth below, CONTINUE HEARING to April 15, 2020 at 10:00 a.m.

**Pleadings Filed and Reviewed**

1. Order Re: Notice of Motion and Motion for Order Determining Value of Collateral [Doc. No. 45] (the "Rental Property Valuation Order")
2. Order Re: Notice of Motion and Motion for Order Determining Value of Collateral [Doc. No. 50] (the "Vehicle Valuation Order")
3. Stipulation by United States Trustee and Debtors for Continuing Compliance in resolution of United States Trustee's Motion under 11 U.S.C. Sec. 1112(b)(1) to Convert, Dismiss, or Appoint a Chapter 11 Trustee with an Order Directing Payment of Quarterly Fees and for Judgment Thereon and Request to Vacate Hearing [Doc. No. 60]
4. Individual Debtor's [sic] Disclosure Statement in Support of Plan of Reorganization [Doc. No. 65] (the "Disclosure Statement")
5. Individual Debtor's [sic] Chapter 11 Plan of Reorganization [Doc. No. 66] (the "Original Plan")
6. Individual Debtors' First Amended Disclosure Statement in Support of First Amended Plan of Reorganization [Doc. No. 82] (the "First Amended Disclosure Statement")
7. Individual Debtor's [sic] Chapter 11 First Amended Plan of Reorganization [Doc. No. 83] (the "First Amended Plan")
8. Debtors' Notice of Hearing on Adequacy of First Amended Disclosure Statement

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- Describing Debtors' First Amended Chapter 11 Plan of Reorganization Dated July 26, 2019 [Doc. No. 84]
9. Individual Debtor's [sic] Chapter 11 Second Amended Plan of Reorganization [Doc. No. 97] (the "Second Amended Plan")
  10. Debtors' Notice of Hearing on Adequacy of Second Amended Disclosure Statement Describing Debtors' Second Amended Chapter 11 Plan of Reorganization [Doc. No. 98]
  11. Individual Debtors' Second Amended Disclosure Statement in Support of Second Amended Plan of Reorganization [Doc. No. 96] (the "Second Amended Disclosure Statement")
  12. Individual Debtors' Third Amended Disclosure Statement in Support of Second Amended Plan of Reorganization [Doc. No. 101] (the "Third Amended Disclosure Statement")
  13. Order Approving Amended Disclosure Statement and Setting Hearing on Confirmation of Plan [Doc. No. 102]
  14. Proof of Service Re Solicitation Package [Doc. No. 104]
  15. Debtors-in-Possession Motion to Confirm Chapter 11 Plan of Reorganization (the "Confirmation Brief") [Doc. No. 107]
  16. Objection to Confirmation of Chapter 11 Plan [Doc. No. 108] (the "Objection")
  17. As of the preparation of this tentative ruling, no reply is on file

### **I. Facts and Summary of Pleadings**

Debtors-in-possession, Samuel Antonio Acevedo and Lucy Acevedo (together, the "Debtors"), filed this voluntary Chapter 11 case on April 3, 2018 (the "Petition Date"). The Debtors' primary asset consists of a rental property located at 6220 Palladio Lane, Fontana, CA 92336 (the "Rental Property"), which they rent out for an additional \$3,100 in monthly income [*see* Doc. No. 85]. The Debtors sought bankruptcy protection after experiencing several years of financial hardship precipitated by Mr. Acevedo's unexpected loss of employment. In addition, the Debtors' fell behind on mortgage payments on the Rental Property after depleting their savings. Both Debtors are now employed and generate regular monthly income.

On March 13, 2019, the Debtors obtained an order granting their motion to value the Rental Property at \$435,000 for purposes of plan confirmation [Doc. No. 45] (the "Rental Property Valuation Order"). On March 19, 2019, the Debtors obtained an order granting their motion to value their 2016 Honda Accord (the "Vehicle") at

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\$15,977 for purposes of plan confirmation, which resulted in the bifurcation of American Honda Finance's claim into a secured claim of \$15,977 and an unsecured claim of \$3,731.60 [Doc. No. 50] (the "Vehicle Valuation Order").

The Debtors submitted the First Amended Disclosure Statement on July 26, 2019, and subsequently, the Second Amended Disclosure Statement on September 26, 2019, which were both disapproved by the Court for reasons stated in separate tentative rulings [Doc. Nos. 89 and 100]. Subject to the Court's proposed amendments, the Debtors' Third Amended Disclosure Statement was approved on October 24, 2019 [Doc. No. 102] (the "Scheduling Order"), at which time the Court also established deadlines concerning solicitation and confirmation of Debtors' chapter 11 plan.

The Debtors now seek approval of their *Second Amended Chapter 11 Plan of Reorganization* (hereinafter, the "Plan"). A summary of the Debtors' Plan is set forth below.

**Summary of the Plan**

*Administrative Claims*

The Debtors anticipate that administrative fees for professionals will be approximately \$6,000 on the Effective Date, consisting of \$4,000 for remaining chapter 11 fees and \$2,000 for administrative fees owed to former counsel [**Note 1**]. The Debtors propose to pay all administrative claims in full, on the Effective Date, from available cash on hand and with the assistance of a one-time \$7,000 family contribution payment.

*Priority Tax Claims*

As set forth in the Third Amended Disclosure Statement, the Debtors propose to pay the Internal Revenue Service's (the "IRS") claim of \$1,681, in full, plus 6% interest, within five years from the Petition Date, by making equal monthly installments of \$32.50 beginning on the Effective Date. However, the Plan provides otherwise: priority tax "[p]ayments will be made quarterly, due on the first day of the quarter starting on the first such date after the Effective Date..." See Plan at 2, Art. I, Section C.

*Class 5(a) – Wells Fargo Bank, National Association ("Wells Fargo") – Deemed to*

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*Reject (No Ballot Cast)*

Class 5(a) consists of the secured claim of Wells Fargo. Wells Fargo holds a first-priority deed of trust against the Rental Property securing debt in the approximate amount of \$382,478.36. The Debtors propose to pay Wells Fargo's claim in full by making monthly installment payments of \$2,053.23 over a thirty-year period, at a 5% interest rate per annum. Wells Fargo's claim is impaired, and Wells Fargo was entitled to vote on the Plan, but did not cast a ballot. Therefore, Wells Fargo is deemed to reject the Plan.

*Class 5(b) – American Honda Finance Corporation ("Honda") – Deemed to Reject (No Ballot Cast)*

Class 5(b) consists of Honda's secured claim. Honda holds a perfected security interest in the Vehicle. Pursuant to the Vehicle Valuation Order, Honda holds a secured claim of \$15,977 and an unsecured claim of \$3,731.60. Accordingly, the Debtors propose to pay Honda's secured claim in full, plus 6.75% interest, by making monthly installment payments of \$314 over a five-year period. Honda's claim is impaired, and Honda was entitled to vote on the Plan, but did not cast a ballot. Therefore, Honda is deemed to reject the Plan.

*Class 6(b) – General Unsecured Claims – Deemed to Reject (No Ballot Cast)*

This class consists of all allowed general unsecured claims, which the Debtors estimate hold aggregate claims in the amount of \$29,776.01. The Debtors propose to pay this class 70% of their claims, without interest, over a 5-year period by making equal pro-rata monthly installment payments totaling \$347.39. This class is impaired, it was entitled to vote on the Plan, but no claimant in this class casted a ballot. Therefore, Class 6(b) is deemed to reject the Plan.

In fact, as of the preparation of this tentative ruling, the Debtors did not receive any ballots for or against the Plan.

**Summary of the Debtors' Confirmation Brief**

Debtors concede that their Plan does not satisfy all mandatory requirements under § 1129 because no impaired class voted in favor of the Plan. With the exception of this requirement, the Debtors posit that the Plan complies with §1129 in all other respects. The Court previously expressed concerns that the Plan would not satisfy the absolute priority rule, absent creditor approval. Accordingly, Debtors propose to pay



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general unsecured creditors only 70% of their claims, while retaining their interest in the Rental Property. Debtors contend the absolute priority rule is inapplicable here because each unsecured creditor is poised to receive more through the Plan than in chapter 7 liquidation, and no such creditor objected to the Plan. Therefore, Debtors assert that cram down is unnecessary. For the reasons set forth above, the Debtors "hope" to have the necessary votes to confirm the Plan. In the alternative, the Debtors request more time to amend the Plan to fully pay off only those unsecured creditors who filed a proof of claim because Debtors contend, without any admissible proof or specificity, that some scheduled unsecured claims are no longer valid or have been "charged off." See Declaration of Lionel E. Giron, ¶ 7.

**Summary of Wells Fargo's Objection**

On December 31, 2019, Wells Fargo filed a timely objection against the Debtors' Plan (the "Objection"). The Objection states three issues with Debtors' Plan. First, Wells Fargo argues that the Plan is not fair and equitable because it fails to properly compensate Wells Fargo's claim pursuant to §§ 1129(b)(1) and (b)(2)(A)(ii). Accordingly, as a non-consenting secured creditor, Debtors' proposal to pay Wells Fargo's claim at an interest rate of 5% inappropriately accounts for Debtors' risk of nonpayment. Wells Fargo relies on the Supreme Court's opinion in *Till v. SCS Credit Corp. (In re Till)*, 541 U.S. 465, 478-79 (2004) in support that the proposed interest rate will not adequately compensate its claim. As determined in *Till*, an appropriate rate of interest payable to non-consenting creditors is determined by reference to the national prime rate, subject to adjustments based on the risk of future default. Given that the national prime rate was approximately 4.75% on December 31, 2019, Debtors' proposed 5% interest rate provides a 25-point increase over the prime rate, an insufficient adjustment according to Wells Fargo. Therefore, Wells Fargo argues that it will not receive at least the allowed value of its claim under the Plan. Additionally, Wells Fargo notes that the Plan fails to specify whether the Rental Property loan will remain in an escrow account, or if it will be removed from escrow, subject to Wells Fargo's demand for proof of Debtors' ability pay taxes and maintain insurance. Last, Wells Fargo argues that the Plan also fails to comply with § 1129(a)(10) as no impaired class has accepted Debtors' Plan.

In light of the foregoing, Wells Fargo asks that the Court deny the Plan in its entirety, or in the alternative, that the Plan be amended in accordance with the Objection.

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The Debtors have not submitted a response or reply as of the preparation of this tentative ruling.

## **II. Findings of Fact and Conclusions of Law**

### **A. Issues Preventing Confirmation of the Debtors' Plan**

#### *i. No Class Submitted a Vote*

Classes 5(a), 5(b), and 6(b) are all impaired, entitled to vote, but no class casted a ballot (the "Non-Voting Classes"). Therefore, the Plan does not satisfy the requirement under §1129(a)(10). Debtors propose to amend their Plan to avoid paying certain unsecured creditors, thereby ensuring that all unsecured creditors who filed a proof of claim receive 100% of their claims. Debtors' proposed course of action will not remedy the deficiency under §1129(a)(10) because, even if Class 6(b) is no longer impaired, Debtors cannot guarantee that either of the two other impaired classes will vote in favor of the Plan. If Debtors do not receive any votes in favor of their amended plan, they will again fail to comply with § 1129(a)(10).

Moreover, the Debtors claim that the Plan satisfies § 1129(a)(8). Section 1129(a)(8) provides that each class of claims or interests must either accept the plan or not be impaired under the plan. Debtors assert that their Plan satisfies this requirement because administrative claims are not impaired under the Plan, and therefore, at least "these classes" are deemed to have accepted the Plan. Confirmation Brief at 11. Debtors' interpretation is misguided because administrative claims are treated as "nonclassified claims" and not entitled to vote on plan confirmations. 11 U.S.C. §§ 1126(c) & (d); Ahart, et al., Cal. Practice Guide: Bankruptcy Ch. 11-H (The Rutter Group 2019), ¶ 11:1197.) Therefore, Debtors' Plan also fails to comply with § 1129(a)(8).

The Court recognizes the split of authority regarding whether a non-voting, non-objecting, class of creditors is deemed to have accepted or rejected a plan. *See Bell Road Inv. Co. v. M. Long Arabians (In re M. Long Arabians)*, 103 B.R. 211 (B.A.P. 9th Cir. 1989) (members of a class must affirmatively vote in favor of the plan in order for that class to have accepted plan treatment); *compare Heins v. Ruti-Sweetwater*,

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*Inc. (In re Ruti-Sweetwater, Inc.)*, 863 F.2d 1263 (10th Cir. 1988) (Non-voting, non-objecting creditor who is a member of a class that casts no votes is deemed to have accepted the plan of reorganization for purposes of section 1129(a)(8) and 1129(b)).

Plan proponents have dealt with the problem of a non-voting class by including prominent language in the Plan, Disclosure Statement and Plan Ballot providing that creditors who did not vote would be deemed to accept the plan. *See, e.g., In re Adelpia Communications*, 368 B.R. 140, 260-62 (Bankr. S.D.N.Y. 2007) ("Section 7.3 of the Plan adopts a presumption that '[i]f no holders of Claims or Equity Interests eligible to vote in a particular Class vote to accept or reject the Plan, the Plan shall be deemed accepted by the holders of such Claims or Equity Interests in such Class.'... I overruled the ACC Bondholder Group's objection, and uphold the Plan presumption with respect to the non-voting creditors in these classes.").

Unfortunately, the Debtors did not include any such language in the Plan, Disclosure Statement or Ballot. In fact, the Debtors' Ballot expressly stated that failure to return a timely ballot would result in the vote not being counted as "either an acceptance or rejection of the Plan." *See* Third Amended Disclosure Statement, Ex. D.

Therefore, the Court finds it appropriate to reopen voting and directs the Debtors to serve an amended plan and disclosure statement, and a supplemental notice to all creditors and file a proof of service evidencing the same by no later than **January 29, 2020**, that: (i) notes that such classes previously received copies of the Debtors' solicitation package and have failed to timely return a ballot; (ii) unambiguously states that the deadline to submit a ballot has been extended to **February 21, 2020**, (iii) notifies such classes that the failure to timely return a ballot by the February 21st deadline will be deemed acceptance of the amended Plan; and (iv) notifies creditors that additional copies of the amended solicitation package can be obtained by contacting Debtors' counsel.

In the event the Non-Voting Classes do not return ballots by the February 21, 2020 deadline, those classes will be deemed to have accepted the amended Plan.

***ii. Debtors' Proposed Treatment of Certain Unsecured Claims is Inadequate and/or Unsupported***

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As stated in the Confirmation Brief, Debtors propose to avoid the claims of certain unsecured creditors. Debtors argue that these creditors will not receive any distribution under an amended plan on the basis that a) these claimants did not submit a proof of claim and/or b) Debtors assume that the balances on these claims have been excused, no longer exist, or have since been "charged off." *See* Confirmation Brief at 7. Debtors appear to argue that § 1123(b)(3) enables them to amend the Plan to exclude these unsecured creditors.

A claim or interest listed in the debtor's schedules as "undisputed," "unliquidated," and "noncontingent," and for which no objection is filed, is deemed "filed" and "allowed" in the amount scheduled. 11 U.S.C. § 1111(a) ("A proof of claim or interest is deemed filed...for any claim or interest that appears in the schedules filed under section 521(a)(1) or 1106(a)(2) ..."); FRBP 3003(c)(2). Here, the Debtors listed all of the unsecured claims disseminated in the Third Amended Disclosure Statement (*see* Exhibit C) in their *Schedule E/F* [Doc. No. 1]. None of these claims is identified as "contingent," "unliquidated," or "disputed." In addition, the Debtors have not formally objected to any specific claim. Aside from their uncorroborated speculation, the Debtors have not established that any unsecured claim is invalid. In sum, pursuant to § 1111(a), each unsecured claim listed in Exhibit C of the Disclosure Statement is deemed to be filed and allowed.

Debtors' argument to exclude payment to certain unsecured creditors pursuant to § 1123(b)(3) is not adequately briefed. Section 1123(b)(3) governs the treatment of claims or interests of the debtor or the estate, which allows the plan to provide for (A) the settlement or adjustment of any claim or interest belonging to the debtor or the estate, or (B) the retention and enforcement of any claim or interest by either the debtor, the trustee, or a representative of the estate specifically appointed for that purpose. If it is Debtors' position that § 1123(b)(3) authorizes them to object to and disallow claims through a plan confirmation motion, then Debtors have not proffered any legal authority establishing their contention. To that extent, the Court finds Debtors' arguments unpersuasive.

If Debtors intend to pursue this course of action, they must submit a supplemental brief addressing this issue. Notwithstanding the foregoing, if the general unsecured class fails to submit a timely ballot, it will be deemed to accept the Plan, and this issue

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will be moot.

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*iii. Additional Issues Not Addressed by Debtors*

The Court further finds that the Confirmation Brief fails to adequately address the following issues:

1. The Debtors have not submitted evidence establishing that the 5% interest rate proposed for Class 5(a) appropriately considers the risk of nonpayment sustained by Wells Fargo. If Debtors cannot demonstrate in good faith that a 5% interest rate will result in Wells Fargo receiving the present value of its claim, they may amend their Plan to pay Wells Fargo's claim with a suitable rate of interest [Note 2]. However, if Class 5(a) fails to submit a timely ballot, it will be deemed to accept the Plan, and this issue will be moot.
2. The Court finds Wells Fargo's objection regarding the treatment of escrow on the Rental Property loan well founded. Given that this issue affects Debtors' distribution under the Plan regardless of Class 5(a)'s vote, Debtors shall specify the treatment of escrow in their amended Plan and Disclosure Statement.
3. Finally, the Debtors shall specify whether the payment of priority taxes will be on a monthly or quarterly basis in their amended Plan and Disclosure Statement.

**III. Conclusion**

For the reasons set forth above, the Court is not in a position to confirm the Debtors' Plan at this time. The hearing is CONTINUED to April 15, 2020 at 10:00 a.m. The continued hearing is subject to the following deadlines:

1. By no later than **January 24, 2020**, and prior to disseminating the amended voting package, the Debtors are directed to file an amended disclosure statement and chapter 11 plan that addresses the issues discussed above.
2. As instructed above, the Debtors shall serve the amended plan, disclosure statement, and ballot, notice of the continued hearing date, and a supplemental notice to all creditors and file a proof of service evidencing the same by no later than **January 29, 2020**.
3. Any objections to the amended Plan must be filed and served by no later than **March 13, 2020**.

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4. The Debtors must file and serve a supplemental confirmation brief by no later than **March 20, 2020**, if a) an objection is filed or b) as specified in Section II.A.ii of this tentative ruling. Otherwise, the Debtors are not be required to submit a supplemental confirmation brief.
5. The Debtors must file a plan ballot summary no later than **March 20, 2020**.

After the hearing, the Court will prepare a scheduling order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Notwithstanding Debtors' estimated administrative expenses, the Court notes that Debtors' counsel applied for interim fees and expenses in the sum of \$14,028.50 [Doc. No. 70]. Counsel's fees and costs were approved on an interim basis on July 19, 2019 [Doc. No. 79].

**Note 2:** At this stage, the Court finds that it is premature to determine whether Debtors' proposed interest rate on Wells Fargo's claim will result in that creditor receiving the present value of its claim.

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

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron

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Crystle Jane Lindsey  
Joanne P Sanchez

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**#2.00** Hearing re Confirmation of Chapter 11 Plan of Reorganizaton

fr. 1-8-20; 4-8-20

Docket 79

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**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, CONTINUE HEARING to July 15, 2020 at 10:00 a.m.

**Pleadings Filed and Reviewed**

1. Debtor-in-Possession's Motion to Confirm Chapter 11 Plan of Reorganization [Doc. No. 111] (the "Confirmation Brief")
2. Plan Ballot Summary [Doc. No. 112] (the "Ballot")
3. Proof of Service Re Solicitation Package [Doc. No. 104]
4. Supplemental Declaration of Debtor, Liboria Zavalza in Support of her Disclosure Statement [Doc. No. 103] (the "Supplemental Declaration")
5. Individual Debtor's Disclosure Statement in Support of Plan of Reorganization [Doc. No. 79] (the "Disclosure Statement")
6. Individual Debtor's Chapter 11 Plan of Reorganization [Doc. No. 80] (the "Plan")
7. Debtor's Notice of Hearing on Adequacy of Debtor's Disclosure Statement Describing Debtor's Chapter 11 Plan of Reorganization Dated November 6, 2019 [Doc. No. 90]
8. Objection of the United States Trustee to Approval of Individual Debtor's Disclosure Statement in Support of Plan of Reorganization [Doc. No. 85] (the "Objection")
9. Exhibit H, Declaration of Josefina Zavalza and Exhibit I, Declaration of Flor M.



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- Baca, in support of Debtor's Disclosure Statement [Doc. No. 98]
10. Order Approving Stipulation Re: Treatment of Creditor's Claim under Debtor's Chapter 11 Plan of Reorganization [Doc. No. 72]
  11. Stipulation Re: Treatment of Creditor's Claim under Debtor's Chapter 11 Plan of Reorganization [Doc. No. 71]
  12. As of the preparation of this tentative ruling, no opposition is on file

### **I. Facts and Summary of Pleadings**

Debtor-in-possession Liboria Zavalza (the "Debtor") filed this voluntary chapter 11 case on April 3, 2019 (the "Petition Date"). The Debtor's principal asset consists of an ownership interest in rental property located at 4053 & 4501(A) Randolph Street, Huntington Park, CA 90255 (the "Property"). According to monthly operating reports ("MORs"), the Debtor collects approximately \$4,000 per month in rental income. The Court conditionally approved the Debtor's Disclosure Statement on January 13, 2020 [Doc. No. 100]. On January 16, 2020, the Debtor submitted a supplemental declaration in connection with the conditional approval of the Disclosure Statement [Doc. No. 103] (the "Supplemental Declaration"). The Supplemental Declaration asserts that the Debtor's monthly income is approximately \$1,550, which is comprised of social security benefits of \$490 and fluctuating part-time wages of about \$1,060. *See* Supplemental Declaration, ¶¶ 9-12. According to the Debtor, her bankruptcy was precipitated by the loss of income resulting from her unemployment, nonpayment of rent by tenants, and her unsuccessful efforts to refinance the mortgage loan on the Property. *See* Confirmation Brief at 2. The Debtor's outstanding financial obligations consist of mortgage payments owed on the Property and other nominal consumer debt. *Id.*

On March 15, 2020, the Debtor filed the Confirmation Brief seeking to confirm her chapter 11 plan of reorganization [Doc. No. 80] (the "Plan").

### **Summary of the Plan**

#### ***Administrative Claims***

As of the preparation of this tentative ruling, the Debtor's estimated administrative claims total approximately \$15,000. This figure is consistent with the fees and expenses sought by Debtor's counsel in the most recent interim fee application [Doc. Nos. 83, 89]. The Debtor states that the balance of administrative fees has been paid.

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*See Confirmation Brief at 8.*

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***Class 5(a) – Secured Claim of the Bank – Accepts the Plan***

The Property is subject to a first-priority deed of trust in favor of HSBC Bank, N.A., as Trustee for the Registered Holders of Nomura Home Equity Loan, Inc., Asset-Backed Certificates, Series 2007-3 (the "Bank") in the amount of \$1,185,616.25. Pursuant to a court-approved stipulation [Doc. No. 72] between Debtor and the Bank (the "Stipulation"), the Bank holds a fully secured claim against the Property in the amount of \$465,000. Pursuant to the Plan, the Debtor proposes to pay the Bank's secured claim, in full, with a fixed 5% interest rate, by making monthly installment payments of \$2,787.91 over 360 months, which commenced on November 1, 2019. The Bank's claim is impaired, and it voted in favor of the Plan.

***Class 6(b) – General Unsecured Claims – Deemed to Reject the Plan***

This class consists of all allowed general unsecured claims, which the Debtor asserts total \$730,167.23. As set forth in the Stipulation, Class 6(b) includes the unsecured portion of the Bank's claim in the sum of \$722,892.12. In addition to the Bank, there are four other creditors in this class. Pursuant to the Plan, the Debtor proposes to pay this class 2% of its claims, without interest, over a 5-year period by making equal pro-rata monthly installment payments totaling \$247.09. Claims in this class are impaired and entitled to vote on the Plan. However, only one out of five claimants in this class casted a ballot (i.e. the Bank). Therefore, Class 6(b) is deemed to reject the Plan.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

### **A. Issues Preventing Confirmation of the Debtor's Plan at This Time**

There are five claimants in Class 6(b), and the class is impaired and entitled to vote on the Plan, but only the Bank submitted a ballot. The Debtor argues that the Plan should be confirmed because (1) there are no objections against the Plan, (2) the Plan is fair and equitable because Class 6(b) claimants will receive more under the Plan than they would have received in chapter 7, and (3) the Plan does not unfairly discriminate because non-voting claimants are entitled to receive an equal distribution. *See* Confirmation Brief at 9-11.

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**1. *Class 6(b) is deemed to reject the Plan***

Pursuant to 11 U.S.C. 1126(c), a class of claims has accepted a plan if voting creditors in such class holding claims (a) at least two-thirds in amount and (b) more than one-half in number have voted to accept the plan. Here, claimants in Class 6(b) hold claims in the sum of \$730,167.23. The Bank—the only Class 6(b) claimant to vote in favor of the Plan—holds a claim totaling \$722,892.12, which makes up 99% of claims in such class. However, less than one-half of Class 6(b) claims casted a vote in favor of the Plan.

The Court recognizes the split of authority regarding whether a non-voting, non-objecting, class of creditors is deemed to have accepted or rejected a plan. *See Bell Road Inv. Co. v. M. Long Arabians (In re M. Long Arabians)*, 103 B.R. 211 (B.A.P. 9th Cir. 1989) (members of a class must affirmatively vote in favor of the plan in order for that class to have accepted plan treatment); *compare Heins v. Ruti-Sweetwater, Inc. (In re Ruti-Sweetwater, Inc.)*, 863 F.2d 1263 (10th Cir. 1988) (Non-voting, non-objecting creditor who is a member of a class that casts no votes is deemed to have accepted the plan of reorganization for purposes of section 1129(a)(8) and 1129(b)).

Plan proponents have dealt with the problem of a non-voting class by including prominent language in the Plan, Disclosure Statement and Plan Ballot providing that creditors who did not vote would be deemed to accept the plan. *See, e.g., In re Adelpia Communications*, 368 B.R. 140, 260-62 (Bankr. S.D.N.Y. 2007) ("Section 7.3 of the Plan adopts a presumption that '[i]f no holders of Claims or Equity Interests eligible to vote in a particular Class vote to accept or reject the Plan, the Plan shall be deemed accepted by the holders of such Claims or Equity Interests in such Class.'... I overruled the ACC Bondholder Group's objection, and uphold the Plan presumption with respect to the non-voting creditors in these classes.").

Here, the Debtor did not include any such language in the Plan, Disclosure Statement, or Ballot. In fact, the Debtor's Ballot expressly stated that failure to return a timely ballot would result in the vote not being counted as "either an acceptance or rejection of the Plan." *See* Ballot [Doc. No. 112] at 3.

**2. *The Plan does not satisfy the absolute priority rule***

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**Liboria Zavalza**

**Chapter 11**

Pursuant to § 1129(b)(1), a plan may be confirmed where not all impaired classes vote to accept the plan, provided that "the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." With respect to a class of unsecured claims, the condition that a plan be fair and equitable includes the following requirements:

- (i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
- (ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section.

11 U.S.C. § 1129(b)(2)(B).

Here, the Plan proposes to pay Class 6(b) claimants 2% of their claims, without interest, while permitting the Debtor to retain an interest in property on account of her junior claim. The Debtor argues that § 1129(b)(1) and (b)(2)(B) are satisfied as to Class 6(b) claimants because the class will receive more under the Plan than they would have received in chapter 7, and the Plan does not unfairly discriminate because claims will be paid equally. The Plan does not contemplate that the Debtor will make a new value contribution.

The Debtor has not carried her burden of establishing that Class 6(b) will receive the present value of their claims, as required by § 1129(b)(2)(B)(i). In *Liberty Nat'l Enters. v. Ambanc La Mesa Ltd. Pshp. (In re Ambanc La Mesa Ltd. Pshp.)*, the court held that a chapter 11 plan failed to satisfy the absolute priority rule, where it did not pay interest on an unsecured creditor's claim. 115 F.3d 650, 654 (9th Cir. 1997). The *Ambanc* court further determined that the plan had to provide the unsecured creditor "for payment of interest for the post-confirmation time-value of the amount [of its claim]." *Id.* Here, the Plan proposes to pay Class 6(b) only 2% of claims, without interest, while permitting Debtor to retain her interest in the Property. Therefore, the

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**Chapter 11**

proposed treatment of Class 6(b) runs afoul the absolute priority rule, as discussed in *Ambanc*. Moreover, although there are no oppositions on file, the Court acknowledges its independent duty to ensure that reorganization plans satisfy all confirmation requirements. See *In re L&J Anaheim Assoc.*, 995 F.2d 940, 942 (9th Cir. 1993). In sum, the Plan does not satisfy § 1129(b)(2)(B)(i) and cannot be crammed down on Class 6(b).

Based on the foregoing, the Court finds it appropriate to reopen voting and directs the Debtor to file an amended plan and disclosure statement, and serve an amended ballot and supplemental notice to all creditors and file a proof of service evidencing the same by no later than **May 15, 2020**, that: (i) states that Class 6(b) previously received copies of the Debtor's solicitation package and failed to timely return a ballot; (ii) unambiguously states that the deadline to submit a ballot has been extended to **June 15, 2020**, (iii) notifies creditors that the failure to timely return a ballot by the stated deadline will be deemed acceptance of the amended plan; and (iv) notifies creditors that copies of the amended solicitation package can be obtained by contacting Debtor's counsel.

In the event that claimants do not return ballots by the **June 15, 2020** deadline, those classes will be deemed to have accepted the amended plan. Moreover, the Debtor may amend the plan to ensure that Class 6(b) is paid with a suitable interest rate, if the Debtor can afford the payments occasioned by such distribution [**Note 1**]. Nevertheless, if Class 6(b) claimants fail to submit a timely ballot, such class will be deemed to accept the plan, and the absolute priority rule issue will be moot.

### **III. Conclusion**

For the reasons set forth above, the Court is not in a position to confirm the Debtor's Plan at this time. The hearing is CONTINUED to **July 15, 2020 at 10:00 a.m.** The continued hearing is subject to the following deadlines:

1. By no later than **May 15, 2020**, and prior to disseminating the amended voting package, the Debtor is directed to file an amended disclosure statement and chapter 11 plan that addresses the issues discussed above.
2. As instructed above, the Debtor shall serve the amended ballot, the notice of the continued hearing date, and a supplemental notice to all creditors and file a proof of service evidencing the same by no later than **May 22, 2020**.

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**Chapter 11**

3. **June 15, 2020** is fixed as the deadline to cast an amended ballot.
4. The Debtor must file a plan ballot summary by no later than **June 24, 2020**.
5. Any objections to the amended plan must be filed and served by no later than **July 1, 2020**.
6. **July 8, 2020** is fixed as the last day on which the Debtor may file and serve a supplemental confirmation brief in response to any objections to the amended plan, or to address any issues raised herein.

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The issue of calculating appropriate interest rates payable by debtors invoking the cram down option was discussed by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004); *First S. Nat'l Bank v. Sunnyslope Hous. L.P. (In re Sunnyslope Hous. L.P.)*, 859 F.3d 637, 646 (9th Cir. 2017) (applying the "Till test" in a chapter 11 plan). In *Till*, the Court endorsed the "formula approach," which is determined by first "looking to the national prime rate, reported daily in the press," which may be adjusted according to the risk absorbed by creditors. *Till*, 541 U.S. at 478-479.

**Party Information**

**Debtor(s):**

Liboria Zavalza

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#3.00** Hearing  
RE: [143] Motion RE: Objection to Claim Number 5 by Claimant Villegas  
Trucking, Inc.. ; Declaration of Alan W. Forsley and Michael Bonert in Support  
with proof of service

Docket 143

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

4/14/2020

Order entered. Hearings on the Claim Objections **CONTINUED** to **July 1, 2020, at 10:00 a.m.**

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

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley



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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#4.00** Hearing  
RE: [146] Motion RE: Objection to Claim Number 7 by Claimant Malnove  
Incorporated of Utah. Debtors' Objection to Proof of Claim No. 7

Docket 146

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#5.00** Hearing  
RE: [148] Motion RE: Objection to Claim Number 11 by Claimant Vita-Pakt  
Citrus Products Co.. Debtors' Objection to Proof of Claim No. 11

Docket 148

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#6.00** Hearing  
RE: [150] Motion RE: Objection to Claim Number 12 by Claimant Lawrence  
Foods, Inc.. Debtors' Objection to Proof of Claim No. 12

Docket 150

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#7.00** Hearing  
RE: [152] Motion RE: Objection to Claim Number 16 by Claimant Pearson Sales Company, Inc.. Debtors' Objection to Proof of Claim No. 16

Docket 152

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#8.00** Hearing  
RE: [157] Motion RE: Objection to Claim Number 23 by Claimant Graphic Packaging International. Debtors' Objection to Proof of Claim No. 23

Docket 157

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#9.00** Hearing  
RE: [154] Motion RE: Objection to Claim Number 17 by Claimant Brian Muldoon  
Packaging Services. Debtors' Objection to Proof of Claim No. 17

Docket 154

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#10.00** Hearing  
RE: [159] Motion RE: Objection to Claim Number 21 by Claimant D&W Fine Pack LLC. Debtors' Objection to Proof of Claim No. 21

Docket 159

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-20836 Michael Bonert and Vivien Bonert**

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**#11.00** Hearing  
RE: [161] Motion RE: Objection to Claim Number 22 by Claimant Lobasso  
Packaging. Debtors' Objection to Proof of Claim No. 22

Docket 161

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley



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2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#12.00 Hearing  
RE: [170] Motion RE: Objection to Claim Number 27 by Claimant Ingredion Incorporated. Debtors' Objection to Proof of Claim No. 27

Docket 170

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#13.00** Hearing

RE: [172] Motion RE: Objection to Claim Number 29 by Claimant Westrock CP, LLC. Debtors' Objection to Proof of Claim No. 29

Docket 172

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#14.00** Hearing  
RE: [174] Motion RE: Objection to Claim Number 31 by Claimant Cargill  
Incorporated. Debtors' Objection to Proof of Claim No. 31

Docket 174

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#15.00** Hearing  
RE: [176] Motion RE: Objection to Claim Number 32 by Claimant TIC Gums,  
Inc.. Debtors' Objection to Proof of Claim No. 32

Docket 176

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-21593 C & F Sturm, LLC**

**Chapter 11**

**#16.00** Hearing  
RE: [30] Motion for approval of chapter 11 disclosure statement Declaration of  
Christina De Musee

FR. 2-19-20

Docket 30

**Tentative Ruling:**

4/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Amended Disclosure Statement is APPROVED, subject to the minor issues discussed below.

**Pleadings Filed and Reviewed**

1. Debtor's First Amended Plan of Liquidation [Doc. No. 38] (the "Amended Plan")
2. First Amended Disclosure Statement Describing Chapter 11 Plan of Liquidation [Doc. No. 37] (the "Amended Disclosure Statement")
3. Disclosure Statement Describing Chapter 11 Plan of Liquidation [Doc. No. 28] (the "Disclosure Statement")
4. Debtor's Plan of Liquidation [Doc. No. 29] (the "Plan")
5. Motion for Approval of Adequacy of Disclosure Statement Describing Chapter 11 Plan of Liquidation [Doc. No. 30] (the "Motion")
6. Notice of Motion [Doc. No. 31]
  7. Palco Promotions, Inc.'s Objection to Employment Application and Request for Hearing [Doc. No. 14]
8. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

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**CONT... C & F Sturm, LLC**

**Chapter 11**

Debtor-in-possession, C & F Sturm, LLC (the "Debtor"), filed this voluntary chapter 11 case on October 1, 2019 (the "Petition Date"). The Debtor is managed and fully owned by Christina De Musee ("Musee"). The Debtor's only asset consists of real property located at 511 and 515 Las Vegas Boulevard South, Las Vegas, Nevada 89101 (the "Property"). The Debtor's bankruptcy filing was precipitated by the ongoing expenses sustained by Musee, arising in connection with the Property. The Debtor explains that these outlays arise from a settlement agreement (the "Settlement") between Debtor and Palco Promotions, Inc. ("Palco"), one of its unsecured creditors. The Debtor asserts that Palco breached the terms of the Settlement by failing to market the Property or pay its portion of the Property's recurring expenses.

The Debtor filed its Plan and Disclosure Statement on December 31, 2019. However, on February 19, 2020, the Court rejected the Debtor's Disclosure Statement for reasons explained in the Court's final ruling (the "Court's Ruling") [Doc. No. 34]. The Court continued the hearing to the above-captioned time and date to permit the Debtor to file amended pleadings. The Amended Disclosure Statement and Plan were timely filed on March 19, 2020.

As set forth in the Amended Disclosure Statement, the Debtor plans to sell the Property and utilize sale proceeds to fully pay allowed claims. To effectuate the sale of the Property, the Debtor retained the services of bankruptcy counsel and a real estate broker [**Note 1**]. The Debtor informs that it received two offers to purchase the Property in February 2019. However, due to the adverse impact of COVID-19 on the stock market, interested buyers backed away from the transaction and no agreement materialized. Nevertheless, the Debtor anticipates selling the Property once the health crisis is resolved. The Debtor presently seeks an order approving the Amended Disclosure Statement. The Amended Disclosure Statement details the events precipitating the bankruptcy filing and provides a description of significant post-petition events. The Debtor proposes a liquidation plan that will be entirely funded by the proceeds generated from the sale of the Property (the "Sale Proceeds"). The Debtor anticipates that the Sale Proceeds will be sufficient to pay all administrative costs, capital gains taxes, costs of sale, and all claims.

The Plan proposes the following classification scheme and treatments:

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*Administrative Claims*

The Debtor anticipates that administrative fees for professionals will be approximately \$147,700, of which \$30,000 will be sought by Debtor's counsel, \$10,000 by Debtor's accountant, and \$107,700 by the real estate broker (based on the current listing price). The Debtor proposes to pay its counsel and accountant, in full, on the Effective Date [**Note 2**]. The Debtor's real estate broker and quarterly fees owed to the Office of the United States Trustee, totaling \$18,275, will be fully paid upon the sale of the Property.

*Priority Tax Claims*

The Franchise Tax Board ("FTB") and the Clark County Treasurer ("Clark County") hold priority tax claims against the Debtor. The Debtor proposes to fully pay FTB's claim of \$1,645.13, as well as Clark County's claim of \$16,000, upon the sale of the Property.

*Class 3 – Judgment Lien of Brandon Lew, Jr.*

The Amended Plan states that Class 3 consists of the claim of Brandon Lew, Jr., the Debtor's former counsel ("Lew"). Lew has a judgment lien against the Property in the sum of \$20,256.66. The Debtor proposes to pay Lew, in full, upon the sale of the Property. The Debtor states that Class 3 is unimpaired and not entitled to vote on the Amended Plan.

*Class 6 – General Unsecured Claims*

Class 6 consists of all allowed general unsecured claims, including Palco's claim, which the Debtor estimates total \$338,632. *See* Amended Disclosure Statement, Ex. B. The Amended Plan proposes to pay Palco the sum of \$318,500, which is the amount that Palco is entitled to receive under the terms of the Settlement [**Note 3**]. The Debtor clarifies that Palco's proposed payout will be unaffected by the Property's eventual sale price. *See* Amended Plan at 13-14. In other words, even if the Property were to sell for a lesser amount than as contemplated in the Settlement, Palco will still be entitled to receive \$318,500. The Debtor proposes to pay all Class 6 creditors, in full, upon the sale of the Property. The Debtor states that this class is unimpaired and not entitled to vote on the Plan.

*Class 8 – Musee's Insider Claim*

This class consists of Musee's claim to the remaining balance of the Sale Proceeds,

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**CONT... C & F Sturm, LLC**

**Chapter 11**

after all other claims have been satisfied. Musee is an insider. According to the Debtor, Musee's claim is impaired, but as the plan proponent, Musee will not vote against the Amended Plan.

*Means of Implementation*

The Debtor's Plan will be wholly funded from the Sale Proceeds, upon the sale of the Property.

*Additional Material Terms*

The Debtor identifies the "Distribution Date" as the date on which cash will be distributed to claimants pursuant to an order either confirming the Amended Plan or granting a sale motion and a structured dismissal. Until an appropriate order is entered, all property obtained or possessed by the Debtor shall be held in trust, subject to the terms of an order granting a sales motion or confirming the Amended Plan. *See* Amended Plan at 17.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Section 1125 requires a disclosure statement to contain "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 . . . that would enable. . . a hypothetical investor of the relevant class to make an informed judgment about the plan." 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." 11 U.S.C. § 1125(a). Courts interpreting § 1125(a) have explained that the "primary purpose of a disclosure statement is to give the creditors the information they need to decide whether to accept the plan." *In re Monnier Bros.*, 755 F.2d 1336, 1342 (8th Cir. 1985). "According to the legislative history, the parameters of what constitutes adequate information are intended to be flexible." *In re Diversified Investors Fund XVII*, 91 B.R. 559, 560 (Bankr. C.D. Cal. 1988). "Adequate information will be determined by the facts and circumstances of each case." *Oneida Motor Freight, Inc. v. United Jersey Bank*, 848 F.2d 414, 417 (3d Cir. 1988), *accord. In re Ariz. Fast Foods, Inc.*, 299 B.R. 589 (Bankr. D. Ariz. 2003).



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CONT... C & F Sturm, LLC

**Chapter 11**

Relevant factors for evaluating the adequacy of a disclosure statement may include: (1) the events which led to the filing of a bankruptcy petition; (2) a description of the available assets and their value; (3) the anticipated future of the company; (4) the source of information stated in the disclosure statement; (5) a disclaimer; (6) the present condition of the debtor while in Chapter 11; (7) the scheduled claims; (8) the estimated return to creditors under a Chapter 7 liquidation; (9) the accounting method utilized to produce financial information and the name of the accountants responsible for such information; (10) the future management of the debtor; (11) the Chapter 11 plan or a summary thereof; (12) the estimated administrative expenses, including attorneys' and accountants' fees; (13) the collectability of accounts receivable; (14) financial information, data, valuations or projections relevant to the creditors' decision to accept or reject the Chapter 11 plan; (15) information relevant to the risks posed to creditors under the plan; (16) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers; (17) litigation likely to arise in a nonbankruptcy context; (18) tax attributes of the debtor; and (19) the relationship of the debtor with affiliates.

*In re Metrocraft Pub. Services, Inc.*, 39 B.R. 567, 568 (Bankr. Ga. 1984). However, “[d]isclosure of all factors is not necessary in every case.” *Id.*

The Court previously rejected the Disclosure Statement because, *inter alia*, 1) the Plan was internally inconsistent; 2) the Debtor did not provide any substantive information regarding the sale of the Property; 3) the Plan incorrectly identified Palco as an unimpaired claimant; and 4) FTB was not served with any papers. The Court finds that the Debtor appropriately addressed its concerns. First, the Amended Plan resolves ambiguities resulting from inconsistent events triggered by the Effective Date and the Distribution Date. The Amended Plan clarifies that the Distribution Date is subject to an order issued by this Court and not defined by plan deadlines. Importantly, the Debtor also explains that all property will be held in trust, subject to an order confirming the Distribution Date. These amendments are valuable because, as previously discussed, the Debtor could not be "certain that the Property [would] be

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sold *before* the Effective Date, enabling the payment of Sale Proceeds on the Effective Date." Court's Ruling at 5 [Doc. No. 34] (the pages cited follow the pagination located at the top of the document). The Debtor further resolved concerns with respect to the sale of the Property and Palco's classification. In sum, the Court finds that the Debtor adequately addressed all material issues contained in the previous version of the Disclosure Statement and Plan.

However, the Court notes on a few minor issues concerning the Amended Disclosure Statement and Amended Plan:

- Palco's proposed payout under the Amended Plan (\$318,500) is different from the payout stated in the Amended Disclosure (\$324,800). *Compare* Amended Plan at 14 *with* Amended Disclosure Statement at 14. The Court cannot find a reasonable explanation for this discrepancy, nor does the Debtor offer a clarification in the papers.
- As previously discussed in the Court's Ruling, the Disclosure Statement stated that the FTB and Clark County were both Class 1 claimants, while both creditors were treated as priority tax claimants under the Plan. The Debtor did not correct this issue in the amended pleadings.
- The Debtor again failed to serve the amended pleadings on the FTB. However, in order to progress Debtor's case, and in light that the FTB's claim will be paid in full, the Court will not continue this matter. However, the Debtor is reminded that the repeated failure to serve papers on all parties entitled to service may result in further delay, or other appropriate action taken by the Court.

Based on the foregoing, the Court finds that these issues are either immaterial or the result of a clerical error. Subject to any objection by the Debtor, any conflict between the Amended Plan and the Amended Disclosure Statement shall be controlled by the terms of the Amended Plan.

Subject to the minor issues discussed above, the Court finds that the Amended Disclosure Statement contains adequate information. Among other things, the Amended Disclosure Statement describes: (1) the factors precipitating the Chapter 11 filing, (2) a description of the Property and its contemplated sale, (3) the classification structure of the Amended Plan, (4) a Liquidation Analysis, (5) risk factors, (6) estimated administrative expenses, and (7) the means for executing the Plan.

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### **III. Conclusion**

The Amended Disclosure Statement is APPROVED, subject to the minor issues set forth above. The following dates and deadlines will apply to solicitation and confirmation of the Debtor's Plan:

- 1) A hearing will be held on the confirmation of the Debtor's Amended Plan on **July 15, 2020, at 10:00 a.m.**
- 2) In accordance with FRBP 3017(a), the Disclosure Statement, the Plan, a notice of hearing on confirmation of the Plan and, if applicable, a ballot conforming to Official Form No. 14, shall be mailed to all creditors, equity security holders and to the Office of the United States Trustee, pursuant to Federal Rule of Bankruptcy Procedure 3017(d), on or before **April 27, 2020.**
- 3) **May 28, 2020** is fixed as the last day for creditors and equity security holders to return to Debtor's counsel ballots containing written acceptances or rejections of the Plan, which ballots must be actually received by Debtor's counsel by 5:00 p.m. on such date.
- 4) **June 19, 2020** is fixed as the last day on which the Debtor must file and serve a motion for an order confirming the Plan (the "Confirmation Motion") including declarations setting forth a tally of the ballots cast with respect to the Plan ("Ballots"), and attaching thereto the original Ballots, and setting forth evidence that the Debtor has complied with all the requirements for the confirmation of the Plan as set forth in Section 1129 of the Bankruptcy Code.
- 5) **July 1, 2020** (the "Objection Date"), is fixed as the last day for filing and serving written objections to confirmation of the Amended Plan, as provided in Rule 3020(b)(1) of the Federal Rules of Bankruptcy Procedure.
- 6) **July 8, 2020** is fixed as the last day on which the Debtor may file and serve a reply to any opposition to the Confirmation Motion ("Reply").

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please**

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**first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** On October 24, 2019, Palco filed an objection against the employment application of Debtor's real estate broker [Doc. No. 14] (the "Objection"). The Objection did not present a persuasive challenge against the application, and the Court granted the employment application on November 21, 2019 [Doc. No. 25].

**Note 2:** The Amended Plan defines the Effective Date as the earlier of (a) thirty (30) days following the date of entry of the confirmation order, or (b) the date on which the stay on the confirmation order has been lifted. *See* Amended Plan at 6. The Amended Plan aims to set the effective date as June 1, 2020.

**Note 3:** Pursuant to the Settlement, Palco is entitled to 50% of any proceeds in excess of \$1,400,000 generated from the sale of the Property, with any remaining proceeds going to the Debtor. *See* Amended Disclosure Statement, Ex. D. The Settlement requires that the Property is marketed at an initial listing price of \$2,100,000, meaning that Palco would receive a \$318,500 payout, net of sale costs.

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

**Debtor(s):**

C & F Sturm, LLC

Represented By  
Stella A Havkin

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**2:19-25003 Blanca Olivia Corrales**

**Chapter 7**

**#17.00** HearingRE: [15] Motion For Sale of Property of the Estate under Section 363(b) - No Fee ; Notice of Motion and Motion to Approve Assignment Agreement between the Trustee and Debtor for the Trustee's Conveyance of the Estate's Interest in 2006 Dodge Ram; Memorandum of Points and Authorities; Declaration of Peter J. Mastan; and Exhibits with Proof of Service (Mastan (TR), Peter)

Docket 15

**Tentative Ruling:**

4/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived. The Trustee shall direct potential overbidders, if any, to contact the above-referenced number prior to the hearing.**

For the reasons set forth below, the Sale Motion is GRANTED. The Court will conduct the sale auction in accordance with the procedures set forth below.

**Key Sale Terms:**

- 1) Proposed purchaser: Blanca Olivia Corrales (the "Debtor")
- 2) Property for sale: 2006 Dodge Ram (VIN: 1D17HA16226J218805)
- 3) Purchase price: \$5,825
- 4) Overbids: The initial overbid shall be \$6,825. Subsequent overbids shall be in increments of \$500.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion to Approve Assignment Agreement between the Trustee and the Debtor for the Trustee's Conveyance for the Estate's Interest in 2006 Dodge Ram [Doc. No. 15] (the "Sale Motion")
  - a) Notice of [Sale Motion] [Doc. No. 16]
  - b) Notice of Sale of Estate Property [Doc. No. 17]

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CONT... Blanca Olivia Corrales

Chapter 7

- 2) As of the preparation of this tentative ruling, there is no opposition to the Sale Motion on file

### **I. Facts and Summary of Pleadings**

Blanca Olivia Corrales (the "Debtor") commenced a voluntary chapter 7 petition on December 26, 2019. Peter J. Mastan was appointed to be the chapter 7 trustee (the "Trustee"). As forth in *Schedule A/B*, the Debtor possesses an ownership interest in a 2006 Dodge Ram (VIN: 1D17HA16226J218805) (the "Vehicle"), with a stated fair market value of \$6,540. The Debtor claimed an exemption in the Vehicle of \$3,325 (the "Exemption"). *See* Sale Motion, Ex. 2 [Schedule C]. Subject to the Court's approval and any qualified overbids, the Trustee entered into an assignment agreement with the Debtor, governing the conveyance of the estate's interest in the Vehicle (the "Assignment Agreement"). *See* Sale Motion, Ex. 1. The Assignment Agreement contemplates that the Trustee will transfer the Vehicle to the Debtor, "as is" and "where is," in exchange for \$5,825—the Debtor will pay \$2,500 cash to the estate, with the remaining \$3,325 deemed as satisfaction for the Exemption.

The Trustee requests approval of the Sale Motion pursuant to §§ 704(a)(1) and 363(b). The Trustee asserts that the Vehicle's sale is reasonable under the circumstances, supported by sound business judgment, and accounting for costs of sale, the proposed consideration is fair and reasonable. Except for the Exemption, the Trustee asserts that he is not aware of any encumbrances against the Vehicle. The sale is subject to overbids. Finally, the Trustee requests good faith protections for the proposed buyer pursuant to § 363(m). No opposition to the Sale Motion is on file.

### **II. Findings and Conclusions**

Section 363(b) permits the Trustee to sell estate property out of the ordinary course of business, subject to court approval. The Trustee must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19-20 (B.A.P. 9th Cir. 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19-20.

The Trustee has demonstrated sufficient business justification for the sale, which will both generate cash receipts of \$2,500 for the benefit of the estate and satisfy the Debtor's claimed exemption in the Vehicle. In sum, the sale is in accordance with the Trustee's statutory obligation to liquidate the estate's assets.

### **Good Faith Determination Pursuant to 11 U.S.C. § 363(m)**

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The Trustee requests that the purchaser be afforded the protections of § 363(m). Having reviewed the declarations submitted by the Trustee, the Court finds that the proposed buyer is a good faith purchaser entitled to the protections of § 363(m). In the event that an overbidder prevails at the auction, the Court will take testimony from such overbidder to determine whether §363(m) protections are warranted.

**Auction Procedures**

The Court will consider bids from any qualified overbidders making a telephonic appearance on the Sale Motion hearing. The initial overbid shall be \$6,825 with subsequent overbids to be in increments of \$500. The overbid increment is subject to adjustment by the Court to facilitate bidding. The Court will announce each bid level. To remain in the auction, bidders must participate at all bid levels. That is, parties who do not bid in a round cannot later change their minds and re-enter the auction. Parties may make a bid higher than that announced by the Court by clearly stating their bid.

The overbidding procedures proposed by the Trustee are approved as set forth below. A winning overbidder (except for the proposed buyer) shall provide the Trustee with a certified or cashier's check in the full amount of that bid. The prevailing overbidder must make arrangements to pay the Trustee in accordance with the Assignment Agreement. *See* Sale Motion, Ex. 1. Any successful overbidders shall purchase the Vehicle on the same terms and conditions as the proposed buyer, except for the purchase price amount. Potential overbidders are encouraged to thoroughly review the Assignment Agreement attached to the Sale Motion prior to the hearing.

**III. Conclusion**

Based upon the foregoing, the Sale Motion is GRANTED. Notwithstanding Bankruptcy Rule 6004(h), the order approving the sale shall take immediate effect upon entry.

The Trustee shall submit a conforming order, incorporating this tentative ruling by reference, within seven (7) days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should

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an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Blanca Olivia Corrales

Represented By  
Jaime A Cuevas Jr.

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



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**2:19-20161 Ray Charles Patterson**

**Chapter 11**

**#18.00** HearingRE: [53] Motion to Dismiss Debtor Notice of Motion and Motion By Debtor to Dismiss Chapter 11 Case; Memorandum of Points and Authorities; Declaration of Ray Charles Patterson in Support Thereof, with Proof of Service (REUPLOADED WITH CORRECT PDF ATTACHMENT)

Docket 53

**Tentative Ruling:**

4/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED, and the case is dismissed.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion by Debtor to Dismiss Chapter 11 Case [Doc. No. 53] (the "Motion")
2. Voluntary Dismissal of Motion for Order Determining Value of Collateral [11 U.S.C. § 506(a), FRBP 3012] [Doc. No. 28]
3. As of the preparation of this tentative ruling, no response or opposition is on file

**I. Facts and Summary of Pleadings**

Debtor and debtor in possession, Ray Charles Patterson (the "Debtor") filed this voluntary chapter 11 case on August 28, 2019 (the "Petition Date"). The Debtor scheduled an ownership interest in certain real property located at 7520 Shore Cliff Drive, Los Angeles, CA 90045 (the "Property"). The record indicates that the Property is subject to a senior lien held by the Bank of New York Mellon, as trustee for the Certificateholders of the Cwalt, Inc ("BNYM") in the sum of \$1,987,481,81, a second-position lien held by Real Time Resolutions, Inc. ("RTR") in the sum of \$444,113.42,

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and a \$75,000 mechanics lien held by CSAR LLC ("CSAR") (collectively, the "Lienholders"). Having previously received a chapter 7 discharge on November 1, 2017, and he is not personally indebted to the above-mentioned creditors, the Debtor claims that the instant case was filed to prevent the Property's looming foreclosure.

However, the Debtor filed this voluntary dismissal motion as he intends to work with the Lienholders outside of bankruptcy. The Debtor argues that dismissal of this case is in the best interests of creditors, given that that he is not eligible for a discharge and there are no unsecured creditors. As such, proceeding with this petition will result in unnecessary administrative expense, monthly accounting reporting requirements, and the payment of UST fees. The Debtor claims that he only has a nominal amount of priority tax obligations; however, only the IRS filed a proof of claim in the sum of \$2,545.43. Further, the bar date has already passed, and no other claims have since been filed. In sum, the Debtor maintains he can resolve all outstanding financial obligations outside of bankruptcy, and the IRS can satisfy its claim through refund offsets.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Under § 1112(b), the Court shall dismiss or convert a case to one under chapter 7 upon a showing of cause. A "[d]ebtor's request [to voluntarily dismiss a Chapter 11 bankruptcy case] should ordinarily be granted unless some 'plain legal prejudice' will result to creditors." *In re Kimble*, 96 B.R. 305, 308 (Bankr. D. Mont. 1988), quoting *In re Geller*, 74 B.R. 685, 688-689 (Bankr. E.D. Pa. 1987); *In re Hall*, 15 B.R. 913, 915-916 (9th Cir. BAP 1981). The Court finds that the Debtor has standing to bring a motion to dismiss, since it is a "party in interest" 11 U.S.C. § 1109(b).

Here, dismissal best serves the interest of the creditors and the estate. Given that the Debtor intends to address the Lienholders' claims outside of bankruptcy, and noting the lack of any objection, the Court determines that maintaining this case in bankruptcy will incur needless administrative expenses. Furthermore, even if the parties are unable to reach an agreement, the Lienholders will retain their security interest in the Property. Moreover, the Debtor contemplates that the IRS, the only priority claimant to file a proof of claim, may offset its claim against any tax refunds

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entitled to the Debtor. Accordingly, the Court finds it is in the best interests of creditors and the estate to dismiss this case. On the record before it, the Court further finds that no purpose would be served by converting this case to a case under chapter 7. Additionally, there being no objection to the Motion, the Court presumes interested parties consent to the granting of the requested relief pursuant to LBR 9013-1(h).

Finally, there being no other matters pending in this case, the Court will only retain jurisdiction to consider approval and payment of professional fees and outstanding administrative expenses. **[Note 1]**

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED and the case is dismissed.

The Debtor is directed to lodge a proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** On March 18, 2020, the Debtor filed a voluntary dismissal of his *Motion for Order Determining Value of Collateral* [Doc. No. 28].

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

Ray Charles Patterson

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#19.00** HearingRE: [4339] Motion to Extend Time /Debtors Notice of Motion and Sixth Motion For Entry of an order Pursuant To § 365(D)(4) of The Bankruptcy Code Extending The Time To Assume or Reject Unexpired Leases; Memorandum of Points and Authorities and Declaration of Richard Adcock In Support Thereof

Docket 4339

**Tentative Ruling:**

4/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED** and the Assumption/Rejection Deadline is extended to and including **June 21, 2020**.

**Pleadings Filed and Reviewed:**

- 1) Debtor's Notice of Motion and Sixth Motion for Entry of an Order Pursuant to § 365(d)(4) of the Bankruptcy Code Extending the Time to Assume or Reject Unexpired Leases [Doc. No. 4339] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4339 and 4340 [Doc. No. 4382]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. On August 31, 2018, the Court entered an order granting the Debtors' motion for joint administration of the Debtors' Chapter 11 cases. Doc. No. 17.

Individual Debtors are parties to multiple real-property, non-residential leases necessary for the operation of the Debtors' business, including office and operational

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space (the "Leases"). On February 19, 2019, the Court extended the Debtors' initial motion for a 90-day extension of the deadline to assume or reject these unexpired leases (such deadline, the "Assumption/Rejection Deadline"). *See* Doc. No. 1157. The Court subsequently authorized further extensions of the Assumption/Rejection Deadline. *See* Doc. Nos. 1955, 2637, 3173, and 3851. The current Assumption/Rejection Deadline is March 23, 2020.

Debtors now move for an extension of the Assumption/Rejection Deadline from March 23, 2020, to and including June 21, 2020. Debtors state that the extension is necessary because they are still liquidating their remaining assets and have not yet made a final determination regarding the assumption or rejection of specific leases.

## **II. Findings and Conclusions**

Section 365(d)(4) provides:

(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

- (i) the date that is 120 days after the date of the order for relief; or
- (ii) the date of the entry of an order confirming a plan.

(B)

(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

"[T]he legislative purpose behind §365(d)(4) was to protect lessors from extended periods where the premises remained vacant and no rental payments made." *Willamette Water Front Ltd. v. Victoria Station, Inc. (In re Victoria Station Inc.)*, 88 B.R. 231, 237 (B.A.P. 9th Cir. 1988), *aff'd*, 875 F.2d 1380 (9th Cir. 1989).

In its prior rulings extending the Assumption/Rejection deadline, the Court has deemed a Lessor's non-opposition to constitute "consent" for purposes of § 365(d)(4) (B)(ii). *See, e.g.*, Doc. No. 3851. The Court finds it appropriate to continue to deem

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the Lessor's non-opposition to constitute consent. Because the Debtors remain current on lease payments, this approach does not prejudice the Lessors. In addition, absent extension of the deadline, the Debtors will lack the flexibility necessary to allow them to assume and assign certain leases to future purchasers of their remaining assets. This would harm the estates by reducing the purchase price realized in connection with the disposition of the Debtors' assets.

The Lessors have received notice of the Motion and have not objected to the relief requested. The Assumption/Rejection Deadline is extended to and including **June 21, 2020**.

The Debtors shall submit an order incorporating this tentative ruling by reference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#100.00** Hearing  
RE: [9] Motion UNDER FEDERAL RULES OF CIVIL PROCEDURE RULE 12(B)(6)  
FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED;  
MEMORANDUM OF POINTS AND AUTHORITY;  
  
FR. 2-4-20

Docket 9

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe

Represented By  
Michael Jay Berger

**Defendant(s):**

Charlton Lui

Pro Se

Catalyst Trust

Pro Se

CP WW Ventures Inc

Pro Se

CTC Investment Holdings LLC

Pro Se

Primo Hospitality Group, Inc.

Pro Se

Hovahannes Tshavrushyan

Represented By  
Roland H Kedikian

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 15, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh  
Diane C Weil



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#101.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01495. Complaint by Rosendo Gonzalez against Charlton Lui, Catalyst Trust, CP WW Ventures Inc, CTC Investment Holdings LLC, Primo Hospitality Group, Inc., Hovahannes Tshavrushyan. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Weil, Diane)

FR. 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-16-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

8590 Sunset A-FS, LLC dba Cafe

Represented By  
Michael Jay Berger

**Defendant(s):**

Charlton Lui

Pro Se

Catalyst Trust

Pro Se

CP WW Ventures Inc

Pro Se

CTC Investment Holdings LLC

Pro Se

Primo Hospitality Group, Inc.

Pro Se

Hovahannes Tshavrushyan

Pro Se

**Plaintiff(s):**

Rosendo Gonzalez

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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**Hearing Room 1568**

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11:00 AM

**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Diane C Weil

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-10616 Manuel Macias**

**Chapter 7**

**#103.00** HearingRE: [56] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Trustee's Notice Of Motion And Motion To (1) Confirm Sale Of Real Property Commonly Known As 11468 Esther Street, Norwalk, California Free And Clear Of Liens And Claims, And (2) Pay Real Estate Brokers' Commissions; Memorandum Of Points And Authorities, Declaration Of Brad D. Krasnoff And Greg Bingham, And Request For Judicial Notice In Support Thereof with proof of service. (D'Alba, Michael)

Docket 56

**Tentative Ruling:**

4/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived. The Trustee shall direct potential overbidders, if any, to contact the above-referenced number prior to the hearing.**

For the reasons set forth below, the Sale Motion is GRANTED. The Court will conduct the sale auction in accordance with the procedures set forth below.

**Key Sale Terms:**

- 1) Proposed purchasers: Carlos and Jacqueline Torres, or their nominee.
- 2) Property for Sale: 11468 Esther Street, Norwalk, California 90650.
- 3) Purchase price: \$510,000
- 4) Overbids: The minimum overbid amount shall be \$515,000. Subsequent overbids shall be in increments of \$5,000.

**Pleadings Filed and Reviewed:**

- 1) Trustee's Notice of Motion and Motion to (1) Confirm Sale of Real Property Commonly Known as 11468 Esther Street, Norwalk, California Free and Clear of Liens and Claims, and (2) Pay Real Estate Brokers' Commissions [Doc. No. 56] (the "Sale Motion")
  - a) Notice of [Sale Motion] [Doc. No. 57]

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Los Angeles  
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**Hearing Room 1568**

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**CONT...**

**Manuel Macias**

**Chapter 7**

- b) Notice of Sale of Estate Property [Doc. No. 58]
- 2) Order Granting Application to Employ Coldwell Banker Residential Brokerage [Doc. No. 54]
- 3) Application to Employ Coldwell Banker Residential Brokerage as Real Estate Brokers Chapter 7 Trustee's Notice Of Application And Application To Employ Real Estate Brokers Under 11 U.S.C. § 328 And To Enter Into Exclusive Listing Agreement [Doc. No. 52]
- 4) As of the preparation of this tentative ruling, no opposition is on file

### **I. Facts and Summary of Pleadings**

Manuel Macias (the "Debtor") filed a voluntary chapter 7 petition on January 19, 2018 [**Note 1**]. The Debtor scheduled an ownership interest in real property located at 11468 Esther Street, Norwalk, California 90650 (the "Property"). The Property is subject to a first-priority lien held by Plaza Home Mortgage, Inc. ("Plaza"), which originally secured indebtedness in the sum of \$315,000. Based on the most current mortgage payoff statement, the amount due to Plaza through March 27, 2020 is \$298,588.21 [**Note 2**]. *See* the Declaration of Brad D. Krasnoff ("Krasnoff Decl."), Ex. 3. Brad D. Krasnoff was appointed as chapter 7 trustee (the "Trustee").

According to the Trustee, the Debtor transferred his interest in the Property through a series of pre-petition transfers to Steven Molina ("Molina") and Janet Estrada ("Estrada") (collectively, the "Defendants"). On May 1, 2019, the Trustee initiated an adversary action against the Defendants, seeking to avoid their transfers and recover the Property (the "Adversary Proceeding"). On January 9, 2020, the Court entered an order approving a settlement agreement (the "Settlement Agreement") between the Trustee and the Defendants [Doc. No. 47]. The material terms of the Settlement Agreement are as follows:

1. The Defendants shall transfer the Property to the estate, and the Property will be marketed and sold by Trustee;
2. Pending closing of the sale, the Defendants are responsible for the Property's insurance fees, taxes, mortgage payments, and other maintenance costs;
3. Following payment of Plaza's senior lien, and other sale costs, the remaining sale proceeds will be split 50/50 between the Trustee, on one side, and the Defendants on the other.

### **The Proposed Sale**

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Central District of California  
Los Angeles  
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11:00 AM

**CONT...**

**Manuel Macias**

**Chapter 7**

On March 20, 2020, the chapter 7 trustee (the "Trustee") filed the Sale Motion. The Trustee seeks authorization to sell the Property, "as is," and "where is," and free and clear of liens, claims, and encumbrances, pursuant to § 363(f). Following negotiations, the Trustee entered into an agreement with Carlos and Jacqueline Torres (the "Buyers") for the purchase of the Property in the sum of \$510,000, subject to court approval and any qualified overbids received. *See* Krasnoff Decl., Ex. 1. Although the Property is currently occupied, the Trustee asserts that a notice to vacate was personally served on the current tenants on February 28, 2020, who were advised that the Property had to be vacated by April 28, 2020. The Sale Motion contemplates that if the Property is not timely vacated, the escrow will be continued until the Property becomes vacant, at the Trustee's expense. Krasnoff Decl., Ex. 1 at 28. The Trustee proposes the following treatment of liens and encumbrances against the Property:

- 1) **Liens for real property taxes for fiscal year 2019–2020 (the "Tax Lien").** An installment of real property taxes totaling \$1,313.38 will be due by the time the sale is consummated. The sale will be free and clear of the Tax Lien. In accordance with the Settlement Agreement, the Trustee proposes to pay the Tax Lien, through escrow, from the share of sale proceeds allocated to the Defendants.
- 2) **First Position Deed of Trust in favor of Plaza, securing current indebtedness of \$299,718.01 (the "Plaza DOT").** The Trustee will pay through escrow all undisputed amounts owed on the Plaza DOT, and any disputed amounts will attach to the net proceeds of the sale with the same force and validity as it had prior to the sale. The sale will be free and clear of the Plaza DOT.

Accordingly, the Trustee projects that the sale transaction will incur costs of sale of \$40,800 and capital gains taxes of \$897. After the above-referenced liens are resolved, and the costs of sale are fully paid, net proceeds of approximately \$167,271.61 will be divided as provided in the Settlement Agreement. The estate will be entitled to net sale proceeds in the sum of \$83,635.81.

In addition, the Trustee requests that the Court approve proposed sale procedures; determine that the Buyers, or any back-up bidder, are entitled to a good-faith finding under § 363(m); and approve the payment of a 6% sale commission to the parties' real

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CONT...

**Manuel Macias**

**Chapter 7**

estate brokers (the "Commissions"), 3% of which will be paid to the Trustee's broker and the other 3% to the Buyers' broker.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings and Conclusions**

### **The Proposed Sale is Approved**

Section 363(b) permits the Trustee to sell estate property out of the ordinary course of business, subject to court approval. The Trustee must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19-20 (9th Cir. BAP 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19-20.

The Trustee has demonstrated sufficient business justification for the sale. The sale is consistent with the Trustee's statutory obligation to liquidate the estate's assets. Section 363(f) provides that estate property may be sold free and clear of liens, claims, and interests, providing one of the following conditions is satisfied:

- 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 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.

The Court approves the Trustee's proposed treatment of the liens and encumbrances against the Property, and finds that the Property may be sold free and clear of such liens and encumbrances as requested by the Trustee. Pursuant to § 363(f) (3), the sale is free and clear of the Tax Liens and the Plaza DOT because the Property's sale will generate proceeds exceeding the aggregate value of such liens. The sale is free and clear of any potential claims by either Molina or Estrada, as they will only be entitled to recover net sale proceeds, pursuant to the Settlement Agreement. *See* Trustee's Motion to Approve Compromise [Doc. No. 42], Ex. 1 [the Settlement Agreement] at 20. Furthermore, the Trustee is authorized to pay the Commissions

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CONT... Manuel Macias

Chapter 7

through escrow. Having reviewed the declarations of the Trustee and Greg Bingham, one of the real estate brokers retained to market and sell the Property, the Court finds that the Buyers are good faith purchasers entitled to the protections of § 363(m). In the event that an overbidder prevails at the sale hearing, the Court will take testimony from such overbidder to determine whether §363(m) protections are warranted.

**Auction Procedures**

In the event that any qualified overbidders make a telephonic appearance, the Court will conduct an auction in accordance with the procedures set forth in the Sale Motion. The initial overbid will be at \$515,000, with subsequent overbids to be in increments of \$5,000. The overbid increment is subject to adjustment by the Court to facilitate bidding. The Court will announce each bid level. To remain in the auction, bidders must participate at all bid levels. That is, parties who do not bid in a round cannot later change their minds and re-enter the auction. Parties may make a bid higher than that announced by the Court by clearly stating their bid. Any prevailing overbidder shall be bound to the overbid procedures stated in the Sale Motion and must make adequate arrangements with the Trustee prior to or at the hearing.

In order to ensure the timely sale of the Property, the Court is prepared to confirm a back-up buyer proposed by the Trustee, if any.

Finally, the Court deems the absence of any opposition as consent to the granting of the Sale Motion pursuant to Local Bankruptcy Rule 9013-1(h).

**III. Conclusion**

Based upon the foregoing, the Sale Motion is GRANTED in its entirety. Because no opposition is on file, the order approving the Sale Motion shall take effect immediately upon entry, notwithstanding Bankruptcy Rule 6004(h).

**This ruling shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.**

Within seven days of the hearing, the Trustee shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to

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**CONT... Manuel Macias**

**Chapter 7**

submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Sale Motion asserts that the Debtor passed away in October 2018.

**Note 2:** The Court notes that the payoff figure is slightly lower than the amount the Trustee contemplates to pay Plaza upon the closing of the sale.

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

**Debtor(s):**

Manuel Macias

Represented By

Jennifer Ann Aragon - SUSPENDED -

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By

Eric P Israel

Michael G D'Alba



**United States Bankruptcy Court  
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11:00 AM

**2:19-24833 Marvin Ruiz Davila**

**Chapter 7**

**#104.00** HearingRE: [18] Motion to Extend Time for filing Complaints pursuant to 11 U.S.C. §§ 523 and 727

Docket 18

**Tentative Ruling:**

4/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, both the Extension Motion and the 2004 Motion are GRANTED.

**Pleadings Filed and Reviewed:**

1. Motion to Extend Time For Filing Complaint Under 11 U.S.C. §§ 523 and 727 [Doc. No. 18] (the "Extension Motion")
2. Notice of the Extension Motion [Doc. No. 19]
3. Declaration of Bruce Jackman [Doc. No. 17] (the "Declaration")
4. Order Setting Hearing on Motion for Rule 2004 Examination [Doc. No. 13] (the "Order")
5. Motion for Order Authorizing Debtor Examination and Production of Documents under Bankruptcy Rule 2004 [Doc. No. 11] (the "2004 Motion")
6. As of the preparation of this tentative ruling, no opposition is on file.

**I. Facts and Summary of Pleadings**

Marvin Ruiz Davila (the "Debtor") filed a voluntary chapter 7 petition on December 20, 2019 (the "Petition Date"). The Section 341(a) meeting of creditors took place on January 16, 2020, and the deadline to object to the Debtor's discharge was sixty days later, on March 16, 2020. On January 17, 2020, the chapter 7 trustee filed a Report of No Distribution.

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11:00 AM

**CONT... Marvin Ruiz Davila**

**Chapter 7**

**The 2004 Motion**

On March 10, 2020, Merchants Acquisition Group, LLC (the "Movant") filed the *Motion for Order Authorizing Debtor Examination and Production of Documents Under Bankruptcy Rule 2004* (the "2004 Motion") [Doc. No. 11], pursuant to which the Movant sought the Debtor's testimony and the production of records to assist Movant in filing an adversary proceeding under 11 U.S.C. § 523(a). The Movant did not adequately establish grounds for an adversary action, nor did it address the looming deadline to object to the Debtor's discharge on March 16, 2020.

On March 11, 2020, the Court issued an *Order Setting Hearing on Motion for Rule 2004 Examination* [Doc. No. 13] (the "Order"), setting April 1, 2020 as the initial hearing date on the 2004 Motion. The Order instructed the Movant to (i) give notice of the hearing to the Debtor, and (ii) file supplemental briefing by no later than March 18, 2020 addressing how the 2004 examination would advance Movant's contemplated adversary action. The Debtor was permitted to respond to the Movant's supplemental briefing on or before March 25, 2020.

On March 17, 2020, the Movant filed the *Declaration of Bruce Jackman* [Doc. No. 17] (the "Declaration"), who serves as a custodian of records for the Movant. In short, the Declaration asserts that the Debtor, along with an individual by the name of Carmen Johana Cardona Mejia ("Mejia"), purchased luxury goods from Daniel's Jewelers ("Daniel's"), with an aggregate value north of \$7,000, on November 8, December 8, and December 12, 2019, mere days before the Petition Date. [**Note 1**]. The Declaration further explains that all but one of these purchase transactions were charged to credit lines that the Debtor and Mejia had opened with Daniel's. *See* Declaration, ¶ 6. According to Jackman, Daniel's extended these credit lines only after the Debtor and Mejia supplied financial information in conflict with commencement documents submitted by both individuals. *See id.*, ¶¶ 10-13. On or about February 24, 2020, Daniel's assigned its claim against the Debtor to the Movant. *See* 2004 Motion at 2.

On March 26, 2020, the Court continued the hearing on the 2004 Motion to April 15, 2020, to be heard concurrently with the Extension Motion [Doc. No. 26].

**The Extension Motion**

On March 16, 2020, on the final day to object to the Debtor's case, the Movant filed the Extension Motion seeking to extend the foregoing deadline for an unspecified amount of time. The Movant claims that the Debtor and Mejia each committed fraud within the presumptive period set by § 523(a)(2)(C) by purchasing luxury goods

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**CONT...**

**Marvin Ruiz Davila**

**Chapter 7**

valued in excess of \$500 with wrongfully-acquired credit. Although the Movant found Debtor's acts objectionable, it explains that the debts Debtor individually incurred would not have justified a dischargeability action due to the significant legal expense involved. It was only after Movant discovered that Debtor is engaged to Mejia, and had acted in concert with her, that it realized it had a substantial claim against the pair. However, this realization came far too late to timely object to the Debtor's discharge. Accordingly, the Debtor's marital status is not obvious, and though both individuals claimed to be married on their respective credit applications, the Debtor did not file a joint case with Mejia. *See* Extension Motion at 2. **[Note 2]**. Movant alleges that it further delayed because Debtor initially stated an intention to reaffirm his debt, which he did not carry through. In sum, because Debtor's relationship with Mejia was not evident, the Movant was not able to timely prosecute a dischargeability action.

As of the preparation of this tentative ruling, the Debtor has not opposed either the Extension Motion or the 2004 Motion.

## **II. Findings of Fact and Conclusions of Law**

Extensions of time to object to discharge are governed by Rule 4004(b) which provides, in relevant part:

(b) Extension of Time.

(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.

Fed. R. Bankr. P. 4004(b)(1).

Similarly, extensions of time to file a complaint to determine the dischargeability of debt under § 523(c) are governed by Rule 4007(c) which provides, in relevant part:

On motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

Fed. R. Bankr. P. 4007(c) (governing the time for filing complaint under § 523(c)).

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**CONT... Marvin Ruiz Davila**

**Chapter 7**

Section 523(c) encompasses the dischargeability of debt "of a kind specified in paragraph (2), (4), or (6) of subsection (a) of [§ 523]." 11 U.S.C. § 523(c).

The Court finds that the Extension Motion was timely filed before the expiration of the sixty-day deadline on March 16, 2020. Based upon the representations in the Extension Motion and the Declaration, the Court finds that the Movant has established adequate cause to grant the Extension Motion. Although the Movant failed to request a specific deadline, the Court is prepared to grant Movant an extension to, and including, June 19, 2020 to file a complaint under § 727 and/or § 523.

Based on the foregoing, the 2004 Motion is further granted in accordance with the following terms:

1. The examination will take place at 131 N. Tustin Ave., Suite 200, Tustin, CA 92780, on April 29, 2020 at 12:30 p.m.
2. To contain the spread of COVID-19, the parties are strongly encouraged to conduct the Debtor's examination by video or telephonic conference, deliver and accept documents electronically, and take any other adequate preventive measures. If conducted in person, the examination must proceed in accordance with all applicable COVID-19 distancing and health and safety rules. The parties must resolve any dispute arising herein in accordance with Local Bankruptcy Rule 7026-1(c).
3. The Debtor shall provide all documents and records enumerated below:
  - a. Any and all documents and records in the Debtor(s)' possession relating to the debt owed to DANIEL'S JEWELERS.
  - b. Any and all documents relating to the location and/or condition of all item(s) purchased from DANIEL'S JEWELERS, including but not limited to the Collateral described as: 1-1/3CTW LADIES DIAMOND RING.
  - c. Any and all documents and records evidencing the transfer or sale of any item(s) purchased by the Debtor(s) from DANIEL'S JEWELERS, if applicable.
  - d. Any and all documents and records evidencing the proceeds realized by the Debtor(s) from any transfer or sale of any item(s) purchased by the Debtor(s) from DANIEL'S JEWELERS, if applicable.
  - e. Any and all documents and records evidencing the truthfulness and/or

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**Marvin Ruiz Davila**

**Chapter 7**

accuracy of the statements made by the Debtor(s) in the credit application that the Debtor(s) completed and signed to open an account with DANIEL'S JEWELERS.

- f. Copies of the Debtor(s)' Federal and State tax returns for the last two calendar years preceding the bankruptcy filing.

## **II. Conclusion**

For the reasons set forth above, the Motions are GRANTED.

The Movant is directed to lodge a conforming proposed order, as to each motion, incorporating the tentative ruling by reference, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Mejia filed a separate bankruptcy petition under chapter 7 on December 20, 2019. *See In re Carmen Johana Cardona Mejia*, 2:19-bk-24831-ER.

**Note 2:** The Debtor's credit application with Daniel's indicates that Mejia is the Debtor's spouse. *See Declaration, Ex. 2.*

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**CONT... Marvin Ruiz Davila**

**Chapter 7**

**Party Information**

**Debtor(s):**

Marvin Ruiz Davila

Represented By  
Juan Castillo-Onofre

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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**Hearing Room 1568**

11:00 AM

**2:19-24833 Marvin Ruiz Davila**

**Chapter 7**

**#104.10** Hearing re [11] *Motion for Order Authorizing Debtor Examination and Production of Documents Under Bankruptcy Rule 2004*

*FR. 4-1-20*

Docket 0

**Tentative Ruling:**

4/14/2020

See Cal. No. 104, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Marvin Ruiz Davila

Represented By  
Juan Castillo-Onofre

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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11:00 AM

**2:19-24831 Carmen Johana Cardona Mejia**

**Chapter 7**

**#105.00** HearingRE: [16] Motion to Extend Time for filing Complaints pursuant to 11 U.S.C. §§ 523 and 727

Docket 16

**Tentative Ruling:**

4/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, both the Extension Motion and the 2004 Motion are GRANTED.

**Pleadings Filed and Reviewed:**

1. Motion to Extend Time For Filing Complaint Under 11 U.S.C. §§ 523 and 727 [Doc. No. 16] (the "Extension Motion")
2. Notice of the Extension Motion [Doc. No. 17]
3. Declaration of Bruce Jackman [Doc. No. 15] (the "Declaration")
4. Order Setting Hearing on Motion for Rule 2004 Examination [Doc. No. 12] (the "Order")
5. Motion for Order Authorizing Debtor Examination and Production of Documents under Bankruptcy Rule 2004 [Doc. No. 10] (the "2004 Motion")
6. As of the preparation of this tentative ruling, no opposition is on file.

**I. Facts and Summary of Pleadings**

Carmen Johana Cardona Mejia (the "Debtor") filed a voluntary chapter 7 petition on December 20, 2019 (the "Petition Date"). The Section 341(a) meeting of creditors took place on January 16, 2020, and the deadline to object to the Debtor's discharge was sixty days later, on March 16, 2020. On January 17, 2020, the chapter 7 trustee filed a Report of No Distribution.



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CONT... Carmen Johana Cardona Mejia

Chapter 7

**The 2004 Motion**

On March 10, 2020, Merchants Acquisition Group, LLC (the "Movant") filed the *Motion for Order Authorizing Debtor Examination and Production of Documents Under Bankruptcy Rule 2004* (the "2004 Motion") [Doc. No. 10], pursuant to which the Movant sought the Debtor's testimony and the production of records to assist Movant in filing an adversary proceeding under 11 U.S.C. § 523(a). The Movant did not adequately establish grounds for an adversary action, nor did it address the looming deadline to object to the Debtor's discharge on March 16, 2020.

On March 11, 2020, the Court issued an *Order Setting Hearing on Motion for Rule 2004 Examination* [Doc. No. 12] (the "Order"), setting April 1, 2020 as the initial hearing date on the 2004 Motion. The Order instructed the Movant to (i) give notice of the hearing to the Debtor, and (ii) file supplemental briefing by no later than March 18, 2020 addressing how the 2004 examination would advance Movant's contemplated adversary action. The Debtor was permitted to respond to the Movant's supplemental briefing on or before March 25, 2020.

On March 17, 2020, the Movant filed the *Declaration of Bruce Jackman* [Doc. No. 15] (the "Declaration"), who serves as a custodian of records for the Movant. In short, the Declaration asserts that the Debtor, along with an individual by the name of Marvin Ruiz Davila ("Ruiz"), purchased luxury goods from Daniel's Jewelers ("Daniel's"), with an aggregate value north of \$7,000, on November 8, December 8, and December 12, 2019, mere days before the Petition Date. [Note 1]. The Declaration further explains that all but one of these purchase transactions were charged to credit lines that the Debtor and Ruiz had opened with Daniel's. *See* Declaration, ¶ 6. According to Jackman, Daniel's extended these credit lines only after the Debtor and Ruiz supplied financial information in conflict with commencement documents submitted by both individuals. *See id.*, ¶¶ 10-13. On or about February 24, 2020, Daniel's assigned its claim against the Debtor to the Movant. *See* 2004 Motion at 2.

On March 26, 2020, the Court continued the hearing on the 2004 Motion to April 15, 2020, to be heard concurrently with the Extension Motion [Doc. No. 23].

**The Extension Motion**

On March 16, 2020, on the final day to object to the Debtor's case, the Movant filed the Extension Motion seeking to extend the foregoing deadline for an unspecified amount of time. The Movant claims that the Debtor and Ruiz each committed fraud within the presumptive period set by § 523(a)(2)(C) by purchasing luxury goods

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**CONT... Carmen Johana Cardona Mejia**

**Chapter 7**

valued in excess of \$500 with wrongfully-acquired credit. Although the Movant found Debtor's acts objectionable, it explains that the debts Debtor individually incurred would not have justified a dischargeability action due to the significant legal expense involved. It was only after Movant discovered that Debtor is engaged to Ruiz, and had acted in concert with him, that it realized it had a substantial claim against the pair. However, this realization came far too late to timely object to the Debtor's discharge. Accordingly, the Debtor's marital status is not obvious, and though both individuals claimed to be married on their respective credit applications, the Debtor did not file a joint case with Ruiz. *See* Extension Motion at 2. **[Note 2]**. Movant alleges that it further delayed because Debtor initially stated an intention to reaffirm her debt, which she did not carry through. In sum, because Debtor's relationship with Ruiz was not evident, the Movant was not able to timely prosecute a dischargeability action.

As of the preparation of this tentative ruling, the Debtor has not opposed either the Extension Motion or the 2004 Motion.

## **II. Findings of Fact and Conclusions of Law**

Extensions of time to object to discharge are governed by Rule 4004(b) which provides, in relevant part:

(b) Extension of Time.

(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.

Fed. R. Bankr. P. 4004(b)(1).

Similarly, extensions of time to file a complaint to determine the dischargeability of debt under § 523(c) are governed by Rule 4007(c) which provides, in relevant part:

On motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

Fed. R. Bankr. P. 4007(c) (governing the time for filing complaint under § 523(c)).

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Section 523(c) encompasses the dischargeability of debt "of a kind specified in paragraph (2), (4), or (6) of subsection (a) of [§ 523]." 11 U.S.C. § 523(c).

The Court finds that the Extension Motion was timely filed before the expiration of the sixty-day deadline on March 16, 2020. Based upon the representations in the Extension Motion and the Declaration, the Court finds that the Movant has established adequate cause to grant the Extension Motion. Although the Movant failed to request a specific deadline, the Court is prepared to grant Movant an extension to, and including, June 19, 2020 to file a complaint under § 727 and/or § 523.

Based on the foregoing, the 2004 Motion is further granted in accordance with the following terms:

1. The examination will take place at 131 N. Tustin Ave., Suite 200, Tustin, CA 92780, on April 29, 2020 at 12:00 p.m.
2. To contain the spread of COVID-19, the parties are strongly encouraged to conduct the Debtor's examination by video or telephonic conference, deliver and accept documents electronically, and take any other adequate preventive measures. If conducted in person, the examination must proceed in accordance with all applicable COVID-19 distancing and health and safety rules. The parties must resolve any dispute arising herein in accordance with Local Bankruptcy Rule 7026-1(c).
3. The Debtor shall provide all documents and records enumerated below:
  - a. Any and all documents and records in the Debtor(s)' possession relating to the debt owed to DANIEL'S JEWELERS.
  - b. Any and all documents relating to the location and/or condition of all item(s) purchased from DANIEL'S JEWELERS, including but not limited to the Collateral described as: 3 DIAMOND TRIO WEDDING SETS.
  - c. Any and all documents and records evidencing the transfer or sale of any item(s) purchased by the Debtor(s) from DANIEL'S JEWELERS, if applicable.
  - d. Any and all documents and records evidencing the proceeds realized by the Debtor(s) from any transfer or sale of any item(s) purchased by the Debtor(s) from DANIEL'S JEWELERS, if applicable.
  - e. Any and all documents and records evidencing the truthfulness and/or

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**Carmen Johana Cardona Mejia**

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accuracy of the statements made by the Debtor(s) in the credit application that the Debtor(s) completed and signed to open an account with DANIEL'S JEWELERS.

- f. Copies of the Debtor(s)' Federal and State tax returns for the last two calendar years preceding the bankruptcy filing.

### **III. Conclusion**

For the reasons set forth above, the Motions are GRANTED.

The Movant is directed to lodge a conforming proposed order, as to each motion, incorporating the tentative ruling by reference, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Ruiz filed a separate bankruptcy petition under chapter 7 on December 20, 2019. *See In re Marvin Ruiz Davila*, 2:19-bk-24833-ER.

**Note 2:** The Debtor's credit application with Daniel's indicates that Ruiz is the Debtor's spouse. *See Declaration*, Ex. 2.

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**Chapter 7**

**Party Information**

**Debtor(s):**

Carmen Johana Cardona Mejia

Represented By  
Juan Castillo-Onofre

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
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**2:19-24831 Carmen Johana Cardona Mejia**

**Chapter 7**

**#106.00** Hearing re [10] *Motion for Order Authorizing Debtor Examination and Production of Documents Under Bankruptcy Rule 2004*

fr. 4-1-20

Docket 0

**Tentative Ruling:**

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See Cal. No. 105, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Carmen Johana Cardona Mejia

Represented By  
Juan Castillo-Onofre

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
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10:00 AM

**2:20-11445 Jennifer Agnes Lopez**

**Chapter 7**

**#1.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2324 Griffin Avenue, Los Angeles, CA 90031 . (Jafarnia, Merdaud)

Docket 11

**Tentative Ruling:**

4/16/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Court finds that there is good cause to grant relief pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(4). Jennifer Agnes Lopez (the "Debtor") filed this voluntary chapter 7 case on February 10, 2020. On May 25, 2006, Christopher David Mercado and Alma C. Mercado (the "Borrowers") executed a deed of trust secured by real property located at 2324 Griffin Avenue, Los Angeles, CA 90031 (the "Property"). *See* Motion, Ex. A. Subject to a refinance loan agreement, on February 1, 2014, the Borrowers entered into a lien modification agreement with the Movant, acting on behalf of the lienholder. *See id.*, Ex. D.

As indicated on Exhibit E, page 66 [Doc. No. 11-1], on November 1, 2018, the Borrowers purportedly granted the Debtor an \$8,000 interest in the Property by way of a deed of trust. An additional interest in the Property was purportedly transferred through a

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**Jennifer Agnes Lopez**

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deed of trust in favor of one Adela Delgado ("Delgado"). *See* Motion, Ex. E at 63. The Borrowers and Delgado have filed a total of eight other bankruptcy cases implicating an interest in the Property. *See generally* Motion, Ex. F (containing docket summaries of each additional bankruptcy case). Therefore, the Court finds that this petition was part of a scheme to delay, hinder, and defraud creditors, which involved the transfer of all or part ownership of, or other interest in, the Property without the consent of Movant or court approval, as well as the filing of various bankruptcy petitions affecting an interest in the Property.

Notwithstanding the foregoing, Debtor's commencement documents do not reflect that she possesses any interests in real property. Doc. No. 1. The record further indicates that the Debtor has no contractual obligations, or is otherwise in privity of contract, with either the Borrowers, Delgado, or the Movant. In sum, the Court cannot conclude that Debtor herself has actually engaged in any bad faith conduct. *See In re Dorsey*, 476 B.R. 261, 267 (Bankr. C.D. Cal. 2012) ("[Section] 362(d)(4) 'does not require that it be the debtor who has created the scheme or carried it out, or even that the debtor be a party to the scheme at all.'" (internal citations omitted).

For the reasons set forth above, the Motion is GRANTED under §§ 362(d)(1) and (d)(4) to permit Movant, its successors, transferees and assigns, to enforce its remedies with respect to the Property in accordance with applicable law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, the order shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the Court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept a certified copy of this order for indexing and recording. All other relief is denied.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

Movant shall upload an appropriate order via the Court's Lodged Order



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**Chapter 7**

Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Jennifer Agnes Lopez

Pro Se

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

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10:00 AM

**2:20-11358 Erica Williams**

**Chapter 7**

**#2.00** HearingRE: [15] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2516 Cudahy Street, Huntington Park Area, California 90255 (In Rem) with Proof of Service.

Docket 15

**Tentative Ruling:**

4/16/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Court finds that there is good cause to grant relief pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(4). Erica Williams (the "Debtor") filed this voluntary chapter 7 case on February 7, 2020. On March 7, 2007, Jose Hernandez, Alejandra Hernandez, and Fernando Hernandez (the "Borrowers") executed a second-position security instrument secured by real property located at 2516 Cudahy Street, Huntington Park, CA 90255 (the "Property"). *See* Motion, Ex. 2. Pursuant to an Assignment of Deed of Trust, on April 17, 2019, the original lienholder assigned its interest in the Property to the Movant. *See id.*, Ex. 3. The Movant asserts that the Borrowers defaulted on payments, which have not been cured as of March 4, 2020. *See* Motion, Attachment Page at 1 [Doc. No. 15].

As indicated on Exhibit 6 attached to the Motion, on November 22, 2017, the

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**Erica Williams**

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Borrowers purportedly granted the Debtor an \$5,200 interest in the Property by way of a deed of trust. An additional interest in the Property was purportedly transferred through a deed of trust in favor of one Jorge Luis Lopez Urrutia ("Urrutia"). *See* Motion, Ex. 5. The Borrowers and Urrutia have filed three other bankruptcy cases implicating an interest in the Property. *See generally* Motion, Exs. 7-9 (containing docket summaries of each additional bankruptcy case). Further, the Court notes that the Honorable Catherine Bauer previously granted stay-relief to Movant concerning the Property on bad faith grounds. *See id.* Ex. 9. Therefore, the Court finds that this petition was part of a scheme to delay, hinder, and defraud creditors, which involved the transfer of all or part ownership of, or other interest in, the Property without the consent of Movant or court approval, as well as the filing of various bankruptcy petitions affecting an interest in the Property.

Notwithstanding the foregoing, Debtor's commencement documents do not reflect that she possesses any interests in real property. Doc. No. 1. The record further indicates that the Debtor has no contractual obligations, or is otherwise in privity of contract, with either the Borrowers, Delgado, or the Movant. In sum, the Court cannot conclude that Debtor herself has actually engaged in any bad faith conduct. *See In re Dorsey*, 476 B.R. 261, 267 (Bankr. C.D. Cal. 2012) ("[Section] 362(d)(4) 'does not require that it be the debtor who has created the scheme or carried it out, or even that the debtor be a party to the scheme at all.'" (internal citations omitted).

For the reasons set forth above, the Motion is GRANTED to permit Movant, its successors, transferees and assigns, to enforce its remedies with respect to the Property in accordance with applicable law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, the order shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the Court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept a certified copy of this order for indexing and recording.

Furthermore, the stay is annulled retroactive to the petition date, so that

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enforcement actions taken by Movant, if any, before receipt of notice of the automatic stay will not be deemed to have been voided by the automatic stay. All other relief is denied.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Erica Williams	Pro Se
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**Trustee(s):**

John P Pringle (TR)	Pro Se
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**2:20-11755 Manuel Avila**

**Chapter 7**

**#3.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 8651 San Miguel Avenue, South Gate, CA 90280 . (Singer, Daniel)

Docket 10

**Tentative Ruling:**

4/16/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enter into a loan modification or forbearance agreement with the debtor and/or to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Since a chapter 7 case does not contemplate reorganization, the sole issue before the Court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the Debtor has equity in the property. *See, e.g., Martens v. Countrywide Home Loans (In re Martens)*, 331 B.R. 395, 398 (B.A.P. 8th Cir. 2005); *Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896, 897 (B.A.P. 9th Cir. 1981).

The subject property has a value of \$410,000 and is encumbered by a perfected junior deed of trust in favor of the Movant. *See* Doc. No. 9. The liens against the

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property and the expected costs of sale total \$630,853.44. The Court finds there is no equity and there is no evidence that the trustee can administer the subject real property for the benefit of creditors.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Manuel Avila

Represented By  
Kelly L Casado

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**2:20-11781 Marquis Campbell**

**Chapter 7**

**#4.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 12058 Kenwood Drive, Fontana, CA 92337 . (Khil, Christina)

Docket 8

**Tentative Ruling:**

4/16/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Alleged Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). "

The Court finds that there is good cause to grant relief pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(4). Kristoff Lusic, Benjamin Farquhar, and Elisa Ritter (jointly, the "Petitioners") filed an involuntary chapter 7 petition against Marquis Campbell (the "Alleged Debtor") on February 19, 2020. On August 3, 2015, Jorge Isidoro Chavez and Gabriela Oropeza (the "Borrowers") executed a deed of trust secured by real property located at 12058 Kenwood Drive, Fontana, CA 92337 (the "Property"). *See* Motion, Ex. 1. Pursuant to an Assignment of Deed of Trust, on May 16, 2017, the original lienholder assigned its interest in the Property to the Movant. *See id.*, Ex. 3. The Movant asserts that the Borrowers defaulted on said deed of trust, for which deficiencies have not been cured as of the filing of the Motion. *See* Motion at 8. As indicated on Exhibit 5 of the Motion, on November 13, 2016, the Borrowers purportedly transferred a 10% interest in the Property to the Alleged Debtor via an unauthorized grant deed. The Court notes that

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on February 24, 2020, the day of a continued trustee's sale, the Movant received a fax notification indicating that the present case had been filed, which implicated an interest in the Property. Consequently, Movant postponed the trustee's sale to March 26, 2020. Therefore, the Court finds that this petition was part of a scheme to delay, hinder, and defraud creditors, which involved the transfer of all or part ownership of, or other interest in, the Property without the consent of Movant or court approval.

Moreover, based upon Movant's declaration and the hearing re dismissal of this involuntary petition for which the petitioning creditors did not appear, the Motion is GRANTED with respect to relief under § 362(d)(4).

Hence, the Motion is GRANTED to permit Movant, its successors, transferees and assigns, to enforce its remedies with respect to the Property in accordance with applicable law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, the order shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the Court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept a certified copy of this order for indexing and recording.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

The Court notes that Alleged Debtor's case was dismissed on April 1, 2020. The Court vacates the dismissal for the limited purpose of entering an order on this Motion.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling**



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**and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Marquis Campbell

Pro Se

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**2:20-11925 Stephen Winner**

**Chapter 7**

**#5.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 4935 Locust Ave., Long Beach, CA 90805 .

Docket 11

**Tentative Ruling:**

4/16/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set on a shortened notice in accordance with Judge Robles' procedures. Oppositions, if any, will be considered at the hearing.

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1). The stay is terminated as to the Debtor and the Debtor's bankruptcy estate with respect to the Movant, its successors, transferees and assigns. Movant may enforce its remedies to obtain possession of the property in accordance with applicable law, but may not pursue a deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

The Debtor continues to occupy the property after a foreclosure sale held on December 30, 2019. The Movant filed an unlawful detainer action on January 28, 2020.

This Motion has been filed to allow the Movant to proceed with the unlawful detainer proceeding in state court. The unlawful detainer proceeding may go forward because the Debtor's right to possess the premises must be determined. This does not change simply because a bankruptcy petition was filed. See In re Butler, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002).

**United States Bankruptcy Court  
Central District of California  
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**CONT... Stephen Winner**

**Chapter 7**

This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Stephen Winner

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, April 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#1.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

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**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, April 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#2.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
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**Tuesday, April 21, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, April 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20698 United International Mortgage Solutions, Inc.**

**Chapter 11**

**#3.00** Order requiring debtor to Appear and Show Cause  
why this case should not be converted or dismissed

fr: 11-6-19; 1-14-20; 3-11-20

Docket 0

**Tentative Ruling:**

4/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required. The Court has reviewed the response to the Court's OSC, filed April 14, 2020.

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

**Debtor(s):**

United International Mortgage

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia



**United States Bankruptcy Court  
Central District of California  
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Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Tuesday, April 21, 2020**

**Hearing Room 1639**

10:00 AM

**2:20-13203 1636 Haslam 888 LLC**

**Chapter 7**

**#4.00** Show Cause Hearing  
RE:[6] Debtor To Appear And Show Cause Why This Case Should Not Be Dismissed  
Based Upon Debtor's Lack Of Representation By Counsel.

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-13-2020**

**Tentative Ruling:**

- NONE LISTED -

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

1636 Haslam 888 LLC	Pro Se
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**Trustee(s):**

John P Pringle (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
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Courtroom 1568 Calendar**

**Tuesday, April 21, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

**#100.00** HearingRE: [85] Motion to Approve Compromise Under Rule 9019 Trustees Notice Of Motion And Motion To Approve Compromise Between The Trustee, The Debtor And Shadi Messian; Memorandum Of Points And Authorities, Declaration Of John J. Menchaca And Request For Judicial Notice In Support Thereof, with Proof of Service (Singh, Sonia)

Docket 85

**Tentative Ruling:**

4/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED, and the Settlement Agreement is APPROVED.

**Pleadings Filed and Reviewed**

1. Trustee's Motion to Approve Compromise between the Trustee, the Debtor and Shadi Messian [Doc. No. 85] (the "Motion")
2. Notice of Motion [Doc. No. 86]
3. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Kami Emein commenced a voluntary chapter 7 petition on May 17, 2018 (the "Petition Date") [Note 1]. John J. Menchaca (the "Trustee") accepted appointment as chapter 7 trustee at the outset of the case. Based on his commencement documents, the Debtor has little personal property, and he did not assert any real property interests.

**Background**

The following is a summary of information uncovered by the Trustee's investigation. The Debtor owned numerous businesses in Los Angeles prior to 2008. Precipitated by

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**CONT... Kami Emein**

**Chapter 7**

the filing of various lawsuits against Debtor's many businesses, the Debtor ceased business operations, and his business assets were either sold or lost through foreclosure between 2008 and 2016.

Starting in 2008, the Debtor's former spouse, Shadi Messian ("Messian"), began organizing several business entities. Accordingly, at least two of Messian's business entities, Government Funding Inc. and SDSD Lending Club, Inc., participated in businesses activities formerly offered by the Debtor's businesses. In addition, Messian, through her wholly-owned companies, owns and operates at least two carwash businesses, which she purchased between 2014 and 2015. Furthermore, on December 30, 2013, Messian purchased residential real estate situated at 2073 Stradella Road, Los Angeles, California 90077 (the "Stradella Property"). The Stradella Property is encumbered a first-position deed of trust securing indebtedness of \$1,100,000. Messian claims that the Stradella Property requires extensive renovations from "hill subsiding problems," which she estimates will cost approximately \$800,000.

The Debtor and Messian married on February 11, 1994. On December 5, 2016, Messian initiated marriage dissolution proceedings in Los Angeles Superior Court, pursuant to which a consensual stipulated judgment between Messian and Debtor was entered on November 3, 2017 (the "Stipulated Judgment"). The Stipulated Judgment recognizes the couple's separation date as February 10, 2008 (the "Separation Date"). Pursuant to the terms of the Stipulated Judgment: a) all assets obtained by Messian after 2008 constitute her separate property; b) Debtor retains all real and personal property in his name as of the Separation Date; and c) Messian retains all real and personal property in her name as of the Separation Date. The Trustee contends that the couple did not separate in 2008.

**The Motion**

On March 25, 2020, the Trustee filed the Motion [Doc. No. 85]. The Trustee seeks approval of a negotiated settlement agreement (the "Settlement Agreement") mediated by David S. Meadows, through the bankruptcy court's mediation program. The material terms of the Settlement Agreement are as follows:

1. The Debtor and Messian (the "Settling Parties") agree to pay the Trustee \$1,000,000; \$50,000 of which will be paid March 31, 2020, \$100,000 on May 30, 2020, and \$850,000 on August 15, 2020.
2. The Settling Parties may obtain up to two 30-day extensions to tender the

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CONT...

**Kami Emein**

**Chapter 7**

- \$850,000 sum, due on August 15, 2020, by paying an additional \$10,000 for a first extension, and an additional \$20,000 for the second extension. Hence, the Settling Parties will have paid an extra \$30,000 if they opt to take advantage of both extensions.
3. The Settling Parties will grant the Trustee the Deeds of Trust against any and all of the Assets as security for payments owed under the Settlement Agreement (the "Deeds of Trust").
  4. The Trustee has the right to record the Deeds of Trust against the Assets.
  5. In the event that the Settling Parties default on their payments, the Trustee may file a declaration informing the Court of the default and thereon request an order to foreclosure upon and sell any and all of the Assets, without further motion practice.
  6. The Trustee agrees to cooperate with the Settling Parties in refinancing the Stradella Property.
  7. Once the Settlement Sum is tendered, the Trustee shall cooperate in removing the Deeds of Trust from the Assets.
  8. Pursuant to the terms of the Settlement Agreement, the Trustee shall release any and all claims against the Settling Parties.
  9. Pursuant to the terms of the Settlement Agreement, the Settling Parties shall release any and all claims against the Trustee, both in his individual capacity and as Trustee.

*See Motion at 6-7. [Note 2]*

In support of the Settlement Agreement, the Trustee makes the following arguments in accordance with the factors enumerated in *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986):

1. The risks attendant with litigation favor approval of the Settlement Agreement. Based on testimony and evidence proffered through a Rule 2004 examination, the Trustee asserts that the Settling Parties did not separate on February 10, 2008. Accordingly, much of Messian's separate property is actually community property, which is subject to administration for the benefit of the estate. However, the Settling Parties contend that they can prove they separated in 2008. Although the Trustee is confident in his position, if this matter goes to trial, there is still a possibility that the factfinder may rule in Messian's favor. Even if the Trustee were to prevail, Messian may still be entitled to 50% of the Assets. Moreover, the

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**CONT...**

**Kami Emein**

**Chapter 7**

sale of the Assets could net substantially less than the amount the estate will receive under the Settlement Agreement.

2. Given market uncertainties, as well as the Stradella Property's subsiding issues, it is unclear whether there will be collection issues if this matter is not promptly resolved.
3. To avoid various transfers and obtain declaratory relief, the Trustee will likely have to pursue several complicated legal theories to establish that the Assets are the community property of the Settling Parties. The Trustee estimates that it could take months, or even years, to resolve this matter through motion practice, or a protracted trial.
4. The interests of creditors will be better served by approval of the Settlement Agreement. The Settlement Agreement circumvents the substantial administrative expense and delay of an adversary proceeding, while providing the estate with a \$1,000,000 cash payment. Moreover, even if the Trustee were to prevail in litigation, there is no guarantee that the Assets will provide a better recovery to the estate, after expenses and legal fees are paid.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Bankruptcy Rule 9019(a) permits the Court to approve a compromise or settlement. In the Ninth Circuit, courts consider the following factors in determining the fairness, reasonableness and adequacy of a proposed settlement agreement:

- (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;
- (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

*Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

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**CONT... Kami Emein**

**Chapter 7**

"Each factor need not be treated in a vacuum; rather, the factors should be considered as a whole to determine whether the settlement compares favorably with the expected rewards of litigation." *In re Western Funding Inc.*, 550 B.R. 841, 851 (B.A.P. 9th Cir. 2016). Furthermore, "compromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (Bankr. D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983).

The Court finds that the Settlement Agreement is adequate, fair and reasonable, and in the best interest of the estate in accordance with the *A & C Properties* factors.

1. Likelihood of Success in Litigation

Here, this factor weighs in favor of approving the Settlement Agreement. Absent a negotiated compromise, this matter will likely require the extended litigation and adjudication of complex issues of fact and law. For instance, determining whether Messian and the Debtor actually separated in 2008 will likely necessitate percipient witness testimony and/or the production of documents. Readily securing such evidence is further complicated, given the passage of time and in light of the restrictions attendant with the COVID-19 pandemic. Additionally, establishing the value of the Stradella Property and Messian's business interests will likely require the considerable expense of securing expert testimony and/or real property appraisals. Even if discovery expenses are kept at a bare minimum, the Settling Parties strongly dispute the Trustee's position, thereby prolonging litigation and increasing the probability of resolution by trial. Based on the foregoing, this factor strongly supports approval of the Motion.

2. Difficulties in Collection

Absent a negotiated compromise, the Court finds that the current market realities will likely impair the Trustee's ability to efficiently liquidate the Assets. On the other hand, approving the Settlement Agreement increases the probability that creditors will receive a sizeable pool of funds by the year's end. Therefore, in consideration of collection difficulties, this factor supports approval of the Settlement Agreement.

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**CONT... Kami Emein**

**Chapter 7**

3. Complexity, Expense, Inconvenience and Delay of Litigation

The Court determines that obtaining a more favorable result by way of an adversary proceeding is improbable and subject to prohibitive legal costs and difficulty given the factual and legal issues involved. Furthermore, it is unlikely that the Debtor possesses any other assets that can be administered for the benefit of the estate. For this reason, the Settlement Agreement adequately considers the interests of creditors, and it reduces the likelihood of litigation, thereby avoiding unnecessary costs, delays, and uncertainties. Therefore, this factor weighs in favor of the Settlement Agreement.

4. Interests of Creditors

For the various reasons explained above, the interests of creditors will be furthered by approval of the Settlement Agreement, which will provide the estate with at least \$1,000,000, or as much as \$1,030,000 before the end of the year. Even if the Settling Parties default on their contractual obligations, the Settlement Agreement authorizes the Trustee to immediately foreclose upon and sell the Assets for the benefit of the estate. Conversely, an adversary proceeding against the Settling Parties creates the risk of a staggered distribution of assets, at best, and administrative insolvency, at worst. Therefore, this factor weighs in favor of the Settlement Agreement.

In sum, the Court determines that the Trustee satisfied all of the *A & C Properties* factors, and therefore, the Settlement Agreement is approved.

Moreover, the Court has not received any objection to the Motion. Accordingly, pursuant to LBR 9013-1(h), the Court presumes all interested parties consent to the approval of the Settlement Agreement.

### **III. Conclusion**

Based on the foregoing, the Motion is GRANTED, and the Settlement Agreement is APPROVED.

The Trustee is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at

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**CONT... Kami Emein**

**Chapter 7**

213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** As set forth in the *Official Form 101* [Doc. No. 1], the Debtor has used the following business names: fdba Reseda Car Wash, fdba Robertson Carwash, fdba Best Car Wash, fdba KB In &Out, fdba Century Car Wash, fdba Deercreek Carwash, fdba Rosecrans Carwash, fdba SBA 504 CDC, fdba Grand Arco, fdba A&E Interstate Carwash, fdba Jerry's Liquor.

**Note 2:** Any capitalized terms not defined herein shall have the meaning ascribed in the Settlement Agreement. *See* Declaration of John J. Menchaca, Ex. 1. Any conflict between the Motion, this tentative ruling, and the Settlement Agreement shall be controlled pursuant to the terms of the Settlement Agreement.

**Party Information**

**Debtor(s):**

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh



**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
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Wednesday, April 22, 2020

Hearing Room 1568

10:00 AM

**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#1.00** Hearing  
RE: [14] Motion to Dismiss Adversary Proceeding Defendant Charlton Lui's  
Notice of Motion and Motion to Dismiss Plaintiff's Adversary Complaint and all  
Claims for Relief

Docket 14

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe	Represented By Michael Jay Berger
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**Defendant(s):**

Charlton Lui	Represented By Sanaz S Bereliani
Catalyst Trust	Pro Se
CP WW Ventures Inc	Pro Se
CTC Investment Holdings LLC	Pro Se
Primo Hospitality Group, Inc.	Pro Se
Hovahannes Tshavrushyan	Represented By Roland H Kedikian

**Plaintiff(s):**

Rosendo Gonzalez	Represented By Diane C Weil
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**Trustee(s):**

Rosendo Gonzalez (TR)	Represented By
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**United States Bankruptcy Court  
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10:00 AM

**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Sonia Singh  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, April 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20161 Ray Charles Patterson**

**Chapter 11**

**#2.00** Hearing  
RE: [28] Motion for Setting Property Value Notice of Motion and Motion for Order Determining Value of Collateral [11 U.S.C. §506(a), FRBP 3012]: 7520 Shore Cliff Drive, Los Angeles, CA 90045, with Proof of Service

fr. 2-5-20; 3-11-20

Docket 28

**\*\*\* VACATED \*\*\* REASON: VOLUNTARILY DISMISSED 3-18-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ray Charles Patterson

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, April 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#3.00** Hearing  
RE: [194] Motion RE: Objection to Claim Number 30 by Claimant Coastal Carriers, LLC. Debtors' Objection to Proof of Claim No. 30

Docket 194

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, April 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#4.00** Hearing  
RE: [196] Motion RE: Objection to Claim Number 28 by Claimant Capitol  
Distribution Company, LLC. Debtors' Objection to Proof of Claim No. 28

Docket 196

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
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Judge Ernest Robles, Presiding  
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**Wednesday, April 22, 2020**

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10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#5.00** Hearing  
RE: [198] Motion RE: Objection to Claim Number 24 by Claimant Stratas Foods LLC. Debtors' Objection to Proof of Claim No. 24

Docket 198

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
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**Wednesday, April 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#6.00** Hearing  
RE: [200] Motion RE: Objection to Claim Number 25 by Claimant Seneca Foods Corporation. Debtors' Objection to Proof of Claim No. 25

Docket 200

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, April 22, 2020

Hearing Room 1568

10:00 AM

2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#7.00 Hearing  
RE: [207] Motion RE: Objection to Claim Number 35 by Claimant HFA, Inc..  
Debtors' Objection to Proof of Claim No. 35

Docket 207

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 22, 2020**

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10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#8.00** Hearing  
RE: [209] Motion RE: Objection to Claim Number 36 by Claimant Empire  
Marketing Strategies, Inc.. Debtors' Objection to Proof of Claim No. 36

Docket 209

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#9.00** Hearing  
RE: [211] Motion RE: Objection to Claim Number 26 by Claimant Packaging Corporation of America. Debtors' Objection to Proof of Claim No. 26

Docket 211

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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Hearing Room 1568

10:00 AM

2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#10.00 Hearing  
RE: [215] Motion RE: Objection to Claim Number 13 by Claimant McMaster-Carr  
Supply Co. Debtors' Objection to Proof of Claim No. 13

Docket 215

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#11.00** Hearing  
RE: [217] Motion RE: Objection to Claim Number 3 by Claimant County of Orange. Debtors' Objection to Proof of Claim No. 3

Docket 217

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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Hearing Room 1568

10:00 AM

2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#12.00 Hearing  
RE: [220] Motion RE: Objection to Claim Number 2 by Claimant Uline, Inc..  
Debtors' Objection to Proof of Claim No. 2

Docket 220

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#13.00** Hearing  
RE: [222] Motion RE: Objection to Claim Number 18 by Claimant Direct  
Packaging and Printing, Inc.. Debtors' Objection to Proof of Claim No. 18

Docket 222

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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10:00 AM

2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#14.00 Hearing  
RE: [229] Motion RE: Objection to Claim Number 33 by Claimant J.H. Rose  
Logistics, LLC. Debtors' Objection to Proof of Claim No. 33

Docket 229

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#15.00 Hearing  
RE: [133] Application to Employ Scott E. Blakeley as Counsel to the Official  
Committee of Unsecured Creditors (Blakeley, Scott)

Docket 133

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-6-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se



**United States Bankruptcy Court  
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Los Angeles  
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Courtroom 1568 Calendar**

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Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#16.00 HearingRE: [4360] Motion For Sale of Property of the Estate under Section 363(b) - No Fee To Approve Terms And Conditions of A Private Sale of Certain of The Debtors Assets Related To Seton Medical Center To AHMC Healthcare Inc.; Memorandum of Points And Authorities and Declarations In Support Thereof

Docket 4360

**Tentative Ruling:**

4/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Sale Motion is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Motion to Approve Terms and Conditions of a Private Sale of Certain of the Debtors' Assets Related to Seton Medical Center to AHMC Healthcare Inc. [Doc. No. 4360] (the "Sale Motion")
  - a) Notice of Hearing on Debtors' Motion to Approve Terms and Conditions of a Private Sale of Certain of the Debtors' Assets Related to Seton Medical Center to AHMC Healthcare Inc. [Doc. No. 4839]
    - i) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4360 and 4364 [Doc. No. 4453]
    - ii) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Notice of Hearing on Debtors' Motion to Approve Terms and Conditions of a Private Sale of Certain of the Debtors' Assets Related to Seton Medical Center to AHMC Healthcare Inc. [Doc. No. 4454]
- 2) Papers filed in Support of the Sale Motion:
  - a) AHMC Healthcare Inc.'s Reply in Support of Debtors' [Sale Motion] [Doc. No. 4576]
    - i) Declaration of Erick Tuckman Regarding the Qualification of AHMC

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**CONT... Verity Health System of California, Inc. Chapter 11**

- Healthcare, Inc. as Good-Faith Purchaser Pursuant to 11 U.S.C. § 363(m)  
in Connection with the Sale of Certain Assets [Doc. No. 4577]
- b) Declarations of the Seton Medical Staff in Support of Sale Motion [Doc. No. 4413]
  - c) Letter of the National Union of Healthcare Workers in Support of Sale Motion [Doc. No. 4600]
- 3) Responses, Objections, and Reservations of Rights:
- a) Limited Objection to Debtors' [Sale Motion] [filed by UnitedHealthcare Ins. Co.] [Doc. No. 4467]
  - b) Limited Objection of 2017 Working Capital Notes Trustee to [Sale Motion] [Doc. No. 4534]
  - c) Hooper Healthcare Consulting, LLC's (1) Limited Response to Debtors' Motion to Approve Terms and Conditions of a Private Sale of Certain of Debtors' Assets Related to Seton Medical Center to AHMC Healthcare, Inc.; (2) Joinder in Objection Thereto Filed by Cigna Healthcare of California, Inc.; and (3) Reservation of Rights [Doc. No. 4546]
  - d) Amended Objection of Cigna Entities to Debtors' Motion to Approve Terms and Conditions of a Private Sale of Certain of Debtors' Assets Related to Seton Medical Center to AHMC Healthcare, Inc. [Doc. No. 4503]
  - e) Response and Reservation of Rights of the State of California Governor's Office of Emergency Services to the [Sale Motion] [Doc. No. 4565]
  - f) Official Committee of Unsecured Creditors' Response to the Debtors' Motion to Approve Private Sale of Seton Medical Center to AHMC Healthcare Inc. [Doc. No. 4528]
- 4) Replies in Support of the Sale Motion:
- a) Debtors' Reply to Oppositions Filed by UnitedHealthcare Insurance Company and Cigna Healthcare of California, Inc. to the [Sale Motion] [Doc. No. 4579]
  - b) Debtors' Reply to Response Filed by the Official Committee of Unsecured Creditors to the [Sale Motion] [Doc. No. 4604]
- 5) Other Relevant Papers:
- a) Notice of Intent to Bid on Seton Assets and Request for Opportunity to Bid [filed by KPC Global Medical Center of San Mateo County, LLC] [Doc. No. 4347]
  - b) Notice by KPC Global Medical Center of San Mateo County, LLC of Withdrawal of Offers to Purchase Seton Assets [Doc. No. 4622]
- 6) Orders and Stipulations Resolving Issues or Preserving Issues for Adjudication at

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**Chapter 11**

- a Later Date:
- a) Order Approving Stipulation Resolving Limited Objection of 2017 Working Capital Notes Trustee to [Sale Motion] [Doc. No. 4598]
    - i) Stipulation Resolving Limited Objection of 2017 Working Capital Notes Trustee to [Sale Motion] [Doc. No. 4592]
  - b) Order Approving Stipulation Between the Debtors and AT&T Corporation, AT&T Services, Inc., and Their Affiliates Approving Certain Language to Be Included in Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No. 4597]
    - i) Stipulation Between the Debtors and AT&T Corporation, AT&T Services, Inc., and Their Affiliates Approving Certain Language to Be Included in Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No. 4591]
  - c) Order Approving Stipulation Resolving California Statewide Communities Development Authority Lien Release Pursuant to the Proposed Sale of Certain of the Debtors' Assets Related to Seton Medical Center [Doc. No. 4613]
    - i) Stipulation Resolving California Statewide Communities Development Authority Lien Release Pursuant to the Proposed Sale of Certain of the Debtors' Assets Related to Seton Medical Center [Doc. No. 4583]
  - d) Order Approving Second Stipulation Continuing Objection Deadline of the U.S. Department of Health and Human Services and Centers for Medicare and Medicaid Services Related to the Proposed Transfer of the Medicare Provider Agreement Related to Seton Medical Center [Doc. No. 4568]
    - i) Second Stipulation Continuing Objection Deadline of the U.S. Department of Health and Human Services and Centers for Medicare and Medicaid Services Related to the Proposed Transfer of the Medicare Provider Agreement Related to Seton Medical Center [Doc. No. 4566]
  - e) Order Approving Second Stipulation Continuing Objection Deadline of the California Department of Health Care Services Related to the Proposed Transfer of the Medi-Cal Provider Agreement Related to Seton Medical Center [Doc. No. 4567]
    - i) Second Stipulation Continuing Objection Deadline of the California Department of Health Care Services Related to the Proposed Transfer of the Medi-Cal Provider Agreement Related to Seton Medical Center [Doc. No. 4562]
  - f) Order Approving Stipulation Approving Certain Language to Be Included in

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CONT... **Verity Health System of California, Inc.** **Chapter 11**

Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No. 4509]

- i) Stipulation Approving Certain Language to Be Included in Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No. 4496]

## **I. Facts and Summary of Pleadings**

Debtors move for entry of an order approving a private sale (the "Sale") of certain assets (the "Purchased Assets" or the "Seton Assets") of Debtors Seton Medical Center ("Seton"), Verity Holdings, LLC ("Holdings"), and Verity Health System of California, Inc. ("VHS") to AHMC Healthcare, Inc. ("AHMC"). Doc. No. 4360 (the "Sale Motion").

### **A. Background**

On August 31, 2018 (the "Petition Date"), VHS and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. Doc. No. 17.

As of the Petition Date, the Debtors operated six acute care hospitals. On December 27, 2018, the Court authorized the Debtors to sell two of their hospitals—O'Connor Hospital and Saint Louise Regional Hospital—to Santa Clara County (the "Santa Clara Sale"). The Santa Clara Sale closed on February 28, 2019.

#### **1. The Failed SGM Sale**

On February 19, 2019, the Court entered an order establishing bidding procedures [Doc. No. 1572] (the "Bidding Procedures Order") for the auction of the Debtors' four remaining hospitals—St. Francis Medical Center ("St. Francis"), St. Vincent Medical Center (including St. Vincent Dialysis Center) ("St. Vincent"), and Seton (including Seton Medical Center Coastside ("Seton Coastside")) (collectively, the "Hospitals"). Under the Bidding Procedures Order, Strategic Global Management ("SGM") was designated as the stalking horse bidder. SGM's bid for all four of the Hospitals was \$610 million. The Bidding Procedures Order approved an Asset Purchase Agreement between the Debtors and SGM (the "SGM APA").

The Hospitals were extensively marketed by the Debtors' investment banker, Cain Brothers, a division of KeyBank Capital Markets, Inc. ("Cain"). Cain notified ninety parties of the auction process. Sixteen of these parties requested continued access to a data room containing information about the Hospitals.

Notwithstanding Cain's thorough marketing efforts, the Debtors did not receive

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any qualified bids for all of the Hospitals. The Debtors received one bid to purchase only St. Vincent and one bid to purchase only St. Francis. After consulting with the Official Committee of Unsecured Creditors (the "Committee") and the largest secured creditors, the Debtors determined not to conduct an auction. On May 2, 2019, the Court entered an order finding that SGM was the winning bidder and approving the sale to SGM (the "SGM Sale").

On November 27, 2019, the Court entered a memorandum of decision and accompanying order finding that as of November 19, 2019, all conditions precedent under the SGM APA to SGM's obligation to close the SGM Sale had been satisfied. Doc. Nos. 3723–24. The Court found that pursuant to § 1.3 of the APA, SGM was obligated to close the SGM Sale by no later than December 5, 2019. *Id.* SGM did not close the sale by December 5, 2019. On December 27, 2019, the Debtors sent SGM a notice terminating the APA and asserting that SGM had materially breached the SGM APA. Doc. No. 3899.

On January 3, 2020, the Debtors filed a *Complaint for Breach of Contract, Promissory Fraud, and Tortious Breach of Contract (Breach of Implied Covenant of Good Faith and Fair Dealing)* [Doc. No. 1, Adv. No. 2:20-ap-01001] (the "SGM Complaint") against SGM, KPC Healthcare Holdings, Inc., KPC Health Plan Holdings, Inc., KPC Healthcare, Inc., KPC Global Management, LLC, and Kali P. Chaudhuri, M.D. (collectively, the "Defendants"). The gravamen of the Complaint is that the Defendants induced the Debtors to enter into the SGM APA under false pretenses, never intended to perform under the SGM APA, and continuously breached the SGM APA. The Complaint asserts claims for breach of contract, promissory fraud, and tortious breach of contract based upon breach of the implied covenant of good faith and fair dealing. On March 4, 2020, the District Court withdrew the reference with respect to the Complaint. Doc. No. 59, Adv. No. 2:20-ap-01001.

2. Marketing Process 2020

Subsequent to the failure of the SGM Sale, Cain commenced a new marketing process to identify parties interesting in acquiring the Seton Assets. Cain contacted parties who had previously expressed interest and posted an updated Confidential Information Memorandum in the online data room.

On January 10, 2020, two bidders submitted non-binding Indications of Interest ("IOI") to acquire the Seton Assets. One of the bidders elected not to move forward with its bid. Negotiations with the remaining bidder, AHMC, led to the Asset Purchase Agreement (the "APA").

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3. Unsolicited Offers Submitted by SGM and SGM's Affiliate GMC

On February 13, 2020, SGM submitted an unsolicited *Offer to Purchase* (the "SGM Seton Offer"). The SGM Seton Offer (a) proposed the acquisition of the Seton Assets for \$60 million cash, (b) was subject to a seven-day due diligence period, and (c) was subject to California Attorney General approval.

On February 25, 2020, SGM submitted an unsolicited *Offer to Purchase* (the "SGM System Offer") the assets that were the subject of the SGM APA for \$450 million (\$160 million less than the purchase price under the SGM APA).

On March 6, 2020, KPC Global Medical Center of San Mateo County, LLC ("GMC") submitted an unsolicited offer to purchase the Seton Assets for \$50 million (\$10 million less than the SGM Seton Offer). GMC is an affiliate of SGM, and was the Seton acquisition entity originally formed for the failed SGM Sale.

Prior to the filing of the Sale Motion, GMC filed with the Court a document captioned *Notice of Intent to Bid on Seton Assets and Request for Opportunity to Bid* [Doc. No. 4347] (the "Notice"). The Notice acknowledges that "the issue of how or when a Seton sale will be conducted is not currently before the Court." Notice at 2. The Notice requests that GMC be provided the opportunity to bid for the Seton Assets, and asserts that "opening the sale process to competitive bidding would be in the best interests of all parties in interest in the Debtors' cases as well as in the interests of the San Mateo community, the Seton employees, and healthcare practitioners." *Id.* GMC did not file an opposition to the Sale Motion.

4. Agreement with the State of California Regarding Treatment of COVID-19 Patients

On March 20, 2020, the Court authorized the Debtors to enter into a *Services Agreement* (the "Seton Agreement") with the California Department of Public Health and the State of California Governor's Office of Emergency Services (the "Office of Emergency Services"). Doc. No. 4315. Under the Seton Agreement, the Debtors receive payments in exchange for providing healthcare services to COVID-19 patients. The Seton Agreement terminates on the 181st day after entry of an order by the Bankruptcy Court approving the Agreement, unless extended by mutual consent.

The Seton Agreement "may not be assigned, absent the State's written consent via an amendment to this Agreement, which shall not be unreasonably withheld." Seton Agreement at § 1.1. "In evaluating whether assignment is reasonable, the proposed assignee shall be required to provide adequate assurance to the State of its ability to perform all ... remaining obligations under this Agreement." *Id.*

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AHMC is aware of the Seton Agreement and intends to cooperate with the Office of Emergency Services in order to achieve an assignment of the Seton Agreement that is consistent with its terms.

The Office of Emergency Services does not object to the Sale Motion, provided that the final order approving the Sale Motion (the "Sale Order") is consistent with the Seton Agreement. The Office of Emergency Services filed a reservation of rights because it has not yet reviewed the proposed Sale Order.

5. Material Provisions of the APA

The material terms of the APA are as follows (capitalized terms have the meaning set forth in the APA):

- 1) The Purchase Price is \$40 million in cash (the "Cash Consideration"), plus an amount equal to the Cure Costs incurred in connection with any Assigned Leases and/or Assigned Contracts. APA at § 1.1(a).
- 2) The deposit is 20% of the Cash Consideration (\$8 million) (the "Deposit"). *Id.* at § 1.2.
- 3) Sellers shall submit the sale to the California Attorney General (the "Attorney General") for review pursuant to Cal. Corp. Code § 5914 *et seq.* *Id.* at § 8.5. The conditions on the transaction which the Purchaser has agreed to accept are set forth in Schedule 8.5 (the "Approved Conditions"). *Id.* In the event the Attorney General seeks to impose conditions not substantially consistent with the Approved Conditions (the "Additional Conditions"), Sellers shall file a motion seeking entry of an order (a "Supplemental Sale Order") finding that the Additional Conditions are an "interest in property" for purposes of § 363(f), and that the Assets can be sold free and clear of the Additional Conditions. *Id.* If Sellers do not obtain a Supplemental Sale Order within thirty days of the Attorney General's imposition of the Additional Conditions, Purchaser shall have the right to terminate the APA and receive the return of its Deposit. *Id.* If Sellers timely obtain a Supplemental Sale Order that is unstayed, the condition precedent of obtaining Attorney General approval shall be deemed satisfied. *Id.*
- 4) Sellers shall use commercially reasonable efforts to facilitate the renegotiation of collective bargaining agreements currently in effect. The Sellers' failure to secure modification of any collective bargaining

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agreement shall not be a breach of Sellers' obligations under the APA. *Id.* at § 4.7.

- 5) Either Sellers or Purchaser may terminate the APA if the sale has not closed on or before September 1, 2020. *Id.* at § 9.1(g).

6. Proposed Procedures Pertaining to the Assumption and Assignment of Executory Contracts and Unexpired Leases

The Debtors propose that the following procedures apply to the assumption and assignment of executory contracts and unexpired leases:

- 1) The Debtors will file with the Court and serve a cure notice (the "Cure Notice") upon each counterparty to an executory contract or unexpired lease which the Debtors seek to assume and assign in connection with the sale (the "Assigned Executory Contracts").
- 2) The Cure Notice will identify the amounts, if any, that the Debtors believe are owed to each counterparty to an Assigned Executory Contract in order to cure any defaults that exist under such contract (the "Cure Amounts"). The Cure Notice will also specify the deadlines for counterparties to (a) object to the sufficiency of the Cure Amounts and/or (b) object to the assumption and assignment of the Assigned Executory Contracts.

**B. Summary of Papers Filed in Support of the Sale Motion by the Medical Staff of Seton, the National Union of Hospital Workers, and AHMC**

1. Medical Staff of Seton

The Medical Staff of Seton (the "Medical Staff") is an association of more than 250 doctors who practice at Seton. Eight doctors who are members of the Medical Staff submitted declarations supporting the sale to AHMC and opposing any sale to SGM or its affiliates. The declaration testimony may be summarized as follows:

- 1) A prompt sale of Seton to AHMC is critical. Employees at Seton have been subjected to significant stress and uncertainty in connection with the failed SGM Sale. As a result of the hospital's uncertain future, Seton has lost multiple key physicians and has lost a quarter of its nurses. Seton and its remaining employees desperately need the stability that would result from a sale to AHMC.



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- 2) The Medical Staff's Medical Executive Committee (the "MEC") has conducted due diligence of AHMC and SGM. AHMC authorized the MEC to tour its hospitals in Southern California. The MEC was impressed by the condition of AHMC's hospitals and the quality of its administrators. SGM never granted the MEC permission to tour its hospitals, even after Dr. Robert Perez, President of the Medical Staff, personally requested permission.
- 3) Based on its due diligence, the MEC came to the following conclusions:
  - a) AHMC has a long and successful history of turning around distressed hospitals such as Seton.
  - b) AHMC has a broad and deep bench of capable administrators who could effectuate a transition. By contrast, SGM did not have the administrative bandwidth to successfully assume operations at Seton in December 2019.
  - c) AHMC organized many of the primary care doctors at Seton into a functional Independent Practice Association and has maintained a good relationship with the doctors. In contrast, at multiple meetings with SGM's few senior transition management personnel, it became clear that SGM's representatives lacked an understanding of how to effectively organize Seton's physicians.
  - d) Many of Seton's unions also represent employees at AHMC hospitals. Those unions are very supportive of an acquisition of Seton by AHMC.

2. National Union of Hospital Workers

The National Union of Hospital Workers (the "NUHW") submitted a letter in support of the sale to AHMC, which provides in relevant part:

We prefer a private sale between Verity Health System and AHMC so that caregivers and patients can finally be certain that Seton will remain open and able to provide the care our community needs....

[In connection with the failed SGM Sale], SGM agreed to hire back substantially all of the workers at Seton and Seton Coastside. As Seton was preparing for operations they gave us a list of terminations that essentially gutted core staff that would leave key hospital functions in the lab, infections control and registrar without adequate coverage, and force remaining staff to change their shifts to cover swing and night shifts....

Even though NUHW members have not met face-to-face with AHMC, the company has been much more transparent and public about their intentions.

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AHMC has committed to hire *all* of the workers. AHMC also has a track record of turning around distressed hospitals that have high levels of Medicare and Medi-Cal recipients.

NUHW Letter at 3–4 [Doc. No. 4600].

3. AHMC

Purchaser AHMC asserts that the Court should approve its purchase of the Seton Assets for the following reasons:

AHMC is the fourth largest health system in Southern California with annual revenues in excess of \$1 billion. AHMC's hospitals have won numerous awards, including, but not limited to, Stroke Care Excellence Award, Emergency Medicine Excellence Award, Critical Care Excellence Award, General Surgery Excellence Award, Pulmonary Care Excellence Award, Maternity Care Excellence Award, Patient Safety Excellence Award, and Cardiac Surgery Excellence Award.

AHMC has successfully turned around several distressed hospitals. In each of these instances, including San Gabriel Valley Medical Center, Anaheim Regional Medical Center, and Parkview Community Hospital Medical Center, AHMC received the approval of the California Attorney General and the required approvals from other state and federal regulators.

**C. Summary of the Official Committee of Unsecured Creditors' Response and the Debtors Reply Thereto**

The Official Committee of Unsecured Creditors (the "Committee") argues that the Court should permit GMC to bid for the Seton Assets, but only if GMC can meet the following five conditions to the Debtors' satisfaction:

- 1) GMC must provide a deposit in the amount of the larger of \$40 million (the AHMC purchase price) or 75% of GMC's ultimate purchase price.
- 2) GMC must waive all conditions and contingencies, such that GMC would be obligated to close.
- 3) GMC must expressly waive any right to appeal any order related to the sale of the Seton Assets.
- 4) SGM and the other defendants to the SGM Complaint must agree not to use any facts related to the sale of the Seton Assets to support any defenses. For

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example, the fact that the estate might proceed with a potential sale to GMC could not be used as evidence that SGM acted in good faith.

- 5) SGM and the other defendants to the SGM Complaint must agree not to use any facts related to the sale of the Seton Assets to reduce the amount of damages at issue in the SGM Complaint.

The Debtors oppose an auction in which SGM or its affiliate GMC is permitted to bid for the Seton Assets. The Debtors assert that a sale to SGM or an affiliated entity would involve substantial risk regardless of SGM's commitments, because of the significant possibility that the sale would not close.

**D. Summary of the Limited Objections Filed by United Healthcare Insurance Company and the Cigna Entities and the Debtors' Replies Thereto**

UnitedHealthcare Insurance Company ("UnitedHealthcare") provides healthcare insurance benefits to members insured under its group medical policies through a network of providers. UnitedHealthcare and Seton are parties to a *Facility Participation Agreement* with an effective date of April 1, 2007 (the "FPA"), pursuant to which Seton provides certain covered healthcare services to UnitedHealthcare's members in exchange for certain fees.

UnitedHealthcare asserts that the Debtors should be required to provide an irrevocable designation as to whether the FPA will be assumed and assigned by no later than 40 days prior to the closing of the sale. UnitedHealthcare maintains that it requires such notice in order to comply with its regulatory obligations.

Cigna Healthcare of California, Inc., Cigna Health and Life Insurance Company, Life Insurance Company of North America, Cigna Dental Health Plan of Arizona, Inc., Cigna Dental Health of California, Inc., and Cigna Dental Health of Texas, Inc. (collectively, the "Cigna Entities") are parties to various executory contracts with the Debtors (the "Cigna Contracts"). The Cigna Contracts include (a) the Cigna Provider Agreement, under which customers of the Cigna Entities received healthcare services provided by the Debtors; (b) the LINA Policies, under which the Cigna Entities provide group disability benefits for employees of the Debtors; and (c) four separate dental insurance policies (the "Cigna Dental Policies"), under which the Cigna Entities provide dental insurance to employees of the Debtors (the Cigna Dental Policies, together with the LINA Policies, the "Employee Benefits Contracts").

The Cigna Entities assert that the Debtors should be required to provide an irrevocable designation regarding the assumption and assignment of the Cigna

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Provider Agreement by no later than 30 days prior to the closing of the sale. The Cigna Entities further assert that the Debtors should be required to designate the proposed disposition of Employee Benefits Contracts in advance of the Sale Hearing, based on the fact that the disposition of the Employee Benefits Contracts could significantly affect benefits coverage for the Debtors' employees. Finally, the Cigna Entities contend that the Debtors should be required to provide adequate assurance of the AHMC's future performance under the Cigna Contracts by no later than two business days after entry of the Sale Order.

The Debtors have agreed to provide an irrevocable designation regarding assumption and assignment by no later than forty days prior to closing, as requested by UnitedHealthcare and the Cigna Entities. The Debtors oppose as premature the Cigna Entities' request that the Debtors be required to provide adequate assurance information within two days of entry of the Sale Order. The Debtors assert that adequate assurance issues should be adjudicated at a hearing on all assumption objections, which the Debtors have requested take place on May 20, 2020.

## **II. Findings and Conclusions**

### **A. The Sale Motion is Granted**

Section 363(b) authorizes the Debtors to sell estate property out of the ordinary course of business, subject to court approval. "All sales not in the ordinary course of business may be by private sale or by public auction." Bankruptcy Rule 6004(f). As explained by one court:

Bankruptcy Rule 6004(a) requires notice be given to the debtor, trustee and all creditors, in order that they may object to the proposed sale. Unlike former Bankruptcy Rule 606(b)(2), which required that sales be by public auction unless otherwise ordered by the Court, current Bankruptcy Rule 6004(e)(1) provides that *all* sales not in the ordinary course of business may be private or by public auction. ... Clearly, the thrust of this statutory scheme is to provide maximum flexibility to the trustee, subject to the oversight of those for whose benefit he acts, *i.e.*, the creditors of the estate. This scheme also promotes Congress' intent of keeping bankruptcy judges out of the administrative aspect of bankruptcy cases, since the Court no longer supervises sales as it did under the repealed Bankruptcy Act.

*In re NEPSCO, Inc.*, 36 B.R. 25, 26 (Bankr. D. Me. 1983) (internal citations omitted).

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In determining whether to approve a sale transaction, “courts consider whether the trustee exercised sound business judgment.” *In re MF Glob. Inc.*, 535 B.R. 596, 605 (Bankr. S.D.N.Y. 2015). “The business judgment of a trustee is entitled to great deference. A trustee generally satisfies the business judgment standard if he ‘acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.’” *Id.* (internal citations omitted); *see also In re 160 Royal Palm, LLC*, 600 B.R. 119, 126 (S.D. Fla.), *aff’d*, 785 F. App’x 829 (11th Cir. 2019) (“A debtor’s business decision should be approved by the court unless it is shown to be so manifestly unreasonable that it could not be based upon sound business judgment, but only on bad faith, or whim or caprice.”).

The Debtors’ decision to not consider GMC’s unsolicited offer and to instead proceed by way of a private sale to AHMC was an appropriate exercise of business judgment to which the Court must defer. In reaching this decision, the Debtors considered the following:

- The Seton Assets were extensively marketed by Cain. The only parties interested in acquiring the assets were AHMC and GMC.
- GMC’s affiliate, SGM, did not close the SGM Sale even after the Court entered an order finding that all conditions precedent to closing had been satisfied and that SGM was required to close. As a result, Richard G. Adcock, VHS’ CEO, does not believe that GMC is “trustworthy, believable or a capable or reliable business partner.” Adcock Decl. at ¶ 12. In contrast, AHMC “has shown the financial ability to close this transaction.” *Id.* at ¶ 10.
- Peter C. Chadwick, a Managing Director at Berkeley Research Group, LLC, the Debtors’ financial advisors, concluded that GMC’s offer “yielded negative value given the risk that SGM, or its affiliate GMC, will not close.” Chadwick Decl. at ¶ 6. The risk that GMC would not close would be especially detrimental to the estates as a result of the substantial “operating losses that would be incurred during the regulatory review and approval of the sale.” *Id.* Finally, the all cash structure of the AHMC transaction minimizes the risk of the Debtors becoming subject to tax remediation claims for failure to defease tax exempt financing issued through the California Statewide Communities Development Authority. *Id.*
- Doctors who work at Seton support a private sale to AHMC and oppose a process under which GMC would have the opportunity to bid. The Medical Staff at Seton (the “Medical Staff”), an organization composed of doctors at

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the hospital, conducted extensive due diligence on both AHMC and SGM. Dr. Robert Perez, President of the Medical Staff, testifies that as of December 2019, the month that the SGM Sale was scheduled to close, SGM “did not have the administrative bandwidth necessary” to operate Seton. Perez Decl. at ¶ 10b. In contrast, Dr. Perez testifies that AHMC has “a broad and deep bench of capable administrators who could ... effectively administer Seton.” *Id.*

As illustrated by the foregoing, the Debtors arrived at the decision to pursue a private sale to AHMC after carefully considering the relevant facts. The Court finds that the Debtors reached this decision in good faith and with the belief that a transaction with AHMC is in the best interest of the estates. As such, the decision to proceed by way of a private sale constitutes a valid exercise of the Debtors’ business judgment which must be accorded deference. The Court approves the sale of the Seton Assets to AHMC.

At 10:10 a.m. on the day prior to the Sale Hearing, GMC filed a document captioned *Notice by KPC Global Medical Center of San Mateo County, LLC of Withdrawal of Offers to Purchase Seton Assets* [Doc. No. 4622] (the “Withdrawal Notice”). The Withdrawal Notice states that GMC “withdraws its prior offers for the purchase of the Seton Medical Center Facilities.” After making this statement, the Withdrawal Notice contains two pages of allegations against the Debtors, all to the effect that the Debtors have refused to engage with GMC regarding the sale of the Seton Assets.

The Court declines to consider the unsubstantiated allegations against the Debtors set forth in the Withdrawal Notice. Had GMC wished to inform the Court of the withdrawal of its prior offers, the first sentence of the Withdrawal Notice would have sufficed. The Withdrawal Notice does not seek any affirmative relief, such as denial of the Sale Motion, suggesting that the document may be a tactical filing intended to influence the litigation against SGM in the District Court. The allegations set forth in the Withdrawal Notice are not supported by declaration testimony or any other evidence, in violation of Local Bankruptcy Rule 9013-1(i). **[Note 1]**

Prior to the filing of the Withdrawal Notice, the Committee argued that the Court should consider an auction involving GMC, provided that GMC could meet various conditions. Proceeding with the Committee’s suggested course of action would require the Court to deny the Sale Motion and would force the Debtors to obtain approval of bidding procedures governing the auction of the Seton Assets. The resulting delay would harm the estates by prolonging the period during which the

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Debtors must continue funding Seton's operating losses. And as set forth above, the Debtors' determination that GMC's bid was illusory and afforded negative value for the estates was a valid exercise of business judgment which the Court lacks the ability to disturb.

**B. AHMC is Entitled to § 363(m) Protections**

Section 363(m) provides that the "reversal or modification on appeal of an authorization ... of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal."

The purpose of § 363(m) is to discourage bidders from colluding for the purpose of driving down the sales prices at bankruptcy auctions. *See Ewell v. Diebert (In re Ewell)*, 958 F.2d 276, 281 (9th Cir. 1992) ("Typically, lack of good faith is shown by fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders").

Having reviewed the declarations of Richard G. Adcock (VHS' CEO), Peter C. Chadwick (a managing director at Berkeley Research Group, LLC, the Debtors' financial advisors), and Erick Tuckman (the Senior Advisor to the Chairman of the Board of AHMC), the Court finds that AHMC is a good-faith purchaser entitled to the protections of § 363(m). The Court makes this good-faith determination based upon the following findings of fact:

- 1) AHMC has no material connections with the Debtors, except for professional connections developed during the bidding process.
- 2) AHMC is not a creditor of the Debtors.
- 3) AHMC is not an "insider" of the Debtors as that term is defined in the Bankruptcy Code.
- 4) AHMC did not collude with any party for the purpose of reducing the sale price of the Seton Assets.
- 5) All negotiations between AHMC and the Debtors were conducted at arm's-length and in good faith.
- 6) AHMC is not a mere continuation of the Debtors and its purchase of the Seton Assets does not constitute a de factor merger.

**C. Issues Resolved By Stipulation**

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The Court has entered orders approving the stipulated resolution of limited objections raised by various parties.

*1. Limited Objection of the 2017 Notes Trustee*

U.S. Bank National Association, solely in its capacity as indenture trustee (the "2017 Notes Trustee") for the Series 2017 and Series 2017B Working Capital Notes (together, the "2017 Working Capital Notes") filed a limited objection seeking adequate protection of the rights of the 2017 Notes Trustee in the Sales Proceeds of Seton Coastside. The 2017 Notes Trustee requested that, prior to any approval of the combined sale of Seton and Seton Coastside by their respective separate Debtor estates, there first be a determination as to the allocation of the Sale Proceeds between the two estates. On April 17, 2020, the Court entered an order approving a stipulation [Doc. No. 4592] (the "2017 Notes Trustee Stipulation") between the Debtors and the 2017 Notes Trustee. Doc. No. 4598. The 2017 Notes Trustee Stipulation provides that the Debtors will allocate \$11.5 million of the Sale Proceeds into Holdings' Escrow Deposit Account, provided that all of the rights of the Prepetition Secured Creditors with respect to such allocation are reserved to the extent set forth in paragraph 4 of the Final DIP Order [Doc. No. 409].

*2. Release of the Liens of the California Statewide Communities Development Authority*

The California Statewide Communities Development Authority (the "CSCDA") holds liens against the Seton Assets on account of financing issued under the CaliforniaFirst Program (the "CSCDA Liens"). The Debtors and CSCDA have stipulated to a release of the CSCDA Liens in exchange for two payments, in the amounts of \$2,381,377.21 and \$3,424,861.96 (both subject to certain adjustments), to be made at the closing of the sale. Doc. No. 4583 (the "CSCDA Stipulation"). On April 20, 2020, the Court entered an order approving the CSCDA Stipulation. Doc. No. 4613.

**D. Issues Reserved for Adjudication at a Later Date**

*1. Issues Pertaining to the Assumption and Assignment of Executory Contracts and Unexpired Leases*

The Court approves the procedures (the "Assumption Procedures") proposed by the Debtors with respect to the assumption and assignment of executory contracts and



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unexpired leases (the "Assigned Executory Contracts"). The Debtors shall file and serve the Cure Notice by no later than **April 29, 2020**. A hearing at which counterparties to Assigned Executory Contracts may object to the assumption and assignment of such contracts (each, an "Assumption Objection") shall take place on **May 20, 2020, at 10:00 a.m. (prevailing local time)**. Counterparties shall have until **May 6, 2020, at 5:00 p.m. (prevailing local time)** to serve an Assumption Objection. The Debtors shall have until **May 13, 2020, at 5:00 p.m. (prevailing local time)** to reply to an Assumption Objection.

The Cigna Entities' request that the Debtors be required to provide adequate assurance information within two days of entry of the Sale Order is overruled. The Assumption Procedures sufficiently protect the Cigna Entities' rights in the event that the Debtors designate any of the Cigna Contracts for assumption and assignment.

Hooper Healthcare Consulting, LLC ("Hooper") filed a joinder to the Cigna Entities' objection to the Assumption Procedures, as well as a reservation of rights. Hooper's objection to the Assumption Procedures is overruled. The Court confirms that all of Hooper's arguments with respect to the assumption of contracts to which it is a party are preserved for adjudication at the Assumption Objection Hearing scheduled for May 20, 2020, at 10:00 a.m.

2. AT&T's Lease Rights

AT&T Corporation, AT&T Services, Inc., and certain affiliates (collectively, "AT&T") are parties to a Medical Office Lease dated May 16, 1989 (the "AT&T Lease"). On April 17, 2020, the Court entered an order approving a stipulation [Doc. No. 4591] (the "AT&T Stipulation") between the Debtors and AT&T. Doc. No. 4597. The AT&T Stipulation provides that AT&T's rights under § 365(h), 363(e), and 363(f) are reserved, and that in the event the parties cannot resolve such matters consensually, the issues will be set for hearing on a mutually convenient date.

3. Authority of the California Attorney General to Review the Sale

On April 9, 2020, the Court approved a stipulation between the Debtors and the Attorney General [Doc. No. 4496] (the "AG Stipulation"). The AG Stipulation provides that the Sale Order shall contain the following provision reserving the parties' rights with respect to the Attorney General's authority to review the sale:

The California Attorney General, the Debtors, the Prepetition Secured Creditors, the Committee, and AHMC, reserve all rights, arguments and

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defenses concerning the California Attorney General's authority, if any, to review the sale under California Corporations Code §§ 5914-5924 and California Code of Regulations on Nonprofit Hospital Transactions—Title 11, Chapter 15, § 999.5, and any conditions issued thereto. Notwithstanding any provision to the contrary in the APA or the Sale Order, nothing in the APA or this Sale Order shall limit or be construed as a waiver of the Attorney General's statutory or regulatory authority or other rights or defenses, or a waiver of the Debtors' statutory or other rights or defenses.

Order Approving Stipulation Approving Certain Language to Be Included in Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No. 4509] at ¶ 2.

*4. Issues Pertaining to the Transfer of the Seton Medi-Cal and Medicare Provider Agreements*

Pursuant to stipulations approved by the Court, a continued hearing on issues pertaining to the transfer of the Debtors' Medi-Cal and Medicare Provider Agreements is set for **May 13, 2020, at 10:00 a.m.** Doc. Nos. 4567 and 4568.

**E. Form of the Sale Order**

Debtors shall insure that the Office of Emergency Services is provided the opportunity to review the form of the Sale Order. Debtors and the Office of Emergency Services shall cooperate with respect to the form of the Sale Order to insure that the language therein is consistent with the Seton Agreement.

**III. Conclusion**

Based upon the foregoing, the Sale Motion is **GRANTED**.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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**Note 1**

In declining to consider the allegations set forth in the Withdrawal Notice, the Court notes that “[t]he statutes governing the sale of assets of bankruptcy estates are intended to protect the creditors of such estates and not prospective purchasers.” *In re HST Gathering Co.*, 125 B.R. 466, 468 (W.D. Tex. 1991). A disappointed prospective purchaser, such as GMC, “is not within the ‘zone of interests intended to be protected’ under the bankruptcy statutes and regulations.” *Id.* Applying this principle, the *HST Gathering* court upheld the bankruptcy court’s refusal to accept a bid tendered in connection with an auction. The court held that the disappointed bidder lacked standing to appeal because he was “not a person whose interest was intended to be protected by the bankruptcy statutes or regulations.” *Id.*; *see also Kabro Assocs. v. Colony Hill Assocs. (In re Colony Hill Assocs.)*, 111 F.3d 269, 273 (2d Cir. 1997) (“[A]n unsuccessful bidder—whose only pecuniary loss is the speculative profit it might have made had it succeeded in purchasing property at an auction—usually lacks standing to challenge a bankruptcy court’s approval of a sale transaction.”); *Stark v. Moran (In re Moran)*, 566 F.3d 676, 682 (6th Cir. 2009) (“A frustrated bidder lacks bankruptcy appellate standing when he merely alleges that he would have profited from his desired purchase, and does not allege, for instance, that fraud or impropriety prevented the estate from accepting his higher bid such that creditors would not receive as great a recovery as they would have had the estate accepted the higher bid.”).

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:20-11316 Jonathan Andrew Arid**

**Chapter 7**

**#17.00** Hearing re [9] Motion To Avoid Lien Under 11 U.S.C. § 522(f), And, If Applicable, For Turnover Of Property (Personal Property). **(holding date)**

Docket 0

**Tentative Ruling:**

4/21/2020

Pursuant to the order entered on April 8, 2020, this matter was deemed suitable for disposition without oral argument pursuant to Fed. R. Civ. P. 78(b) and Local Bankruptcy Rule 9013-1(j)(3). This matter stands submitted as of April 15, 2020. Based on the foregoing, the Court will enter a memorandum of decision determining the instant matter on the merits. The Court will prepare the order.

**Party Information**

**Debtor(s):**

Jonathan Andrew Arid

Represented By  
Richard G Heston

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

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2:17-14364 Silla Automotive, LLC

Chapter 7

#100.00

APPLICANT: Trustee: RICHARD K. DIAMOND

Hearing re [214] Trustees Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

4/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$22,288.98 [*see* Doc. No. 214]

Total Expenses: \$2,022.92 [*see id.*]

**Administrative Rent Claims**

RKW & MLW Family Ltd. Partnership, II: \$576 [*see* Doc. No. 139]

Top Hay, LLC: \$28,000 [*see* Doc. No. 107]

University Technology Center: \$5,695 [*see* Doc. No. 135]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should

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**Chapter 7**

an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Trustee shall submit a conforming order within seven days of the hearing.

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

**Debtor(s):**

Silla Automotive, LLC

Represented By  
James R Selth

**Trustee(s):**

Richard K Diamond (TR)

Represented By  
Howard Kollitz  
Zev Shechtman  
Sonia Singh

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2:17-14364 Silla Automotive, LLC

Chapter 7

#101.00 APPLICANT: Accountant for Trustee: DEVELOPMENT SPECIALISTS INC Attorney  
for Trustee: DANNING GILL DIAMOND & KOLLITZ LLP  
Hearing re [214] Trustees Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

4/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the Court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final):

Fees: \$1,527.50 approved [*see* Doc. No. 211]

Expenses: \$23.32 approved [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Applicant shall submit a conforming order within seven days of the hearing.

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**Chapter 7**

**Party Information**

**Debtor(s):**

Silla Automotive, LLC

Represented By  
James R Selth

**Trustee(s):**

Richard K Diamond (TR)

Represented By  
Howard Kollitz  
Zev Shechtman  
Sonia Singh



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2:17-14364 Silla Automotive, LLC

Chapter 7

#102.00 Other: BERKELEY RESEARCH GROUP LLC

Hearing re [214] Trustees Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

4/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the third and final application for fees and expenses filed by this applicant, the Court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final):

Fees: \$9,458 approved [*see* Doc. No. 208] [**Note 1**]

Expenses: \$118.47 approved [*see id.*]

**Note 1:** The Court notes that Applicant requested payment of an additional \$500 incurred for the preparation of this application and to produce tax findings to properly report the final activity in this case. However, Applicant failed to provide an itemization of these additionally requested fees. These fees are also not reflected in the Trustee's Final Report [Doc. No. 214]. The Court will reserve approval of such fees, pending Trustee's declaration in support thereof.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1668 Calendar**

**Wednesday, April 22, 2020**

**Hearing Room 1668**

11:00 AM

**CONT... Silla Automotive, LLC**

**Chapter 7**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Applicant shall submit a conforming order within seven days of the hearing.

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

**Debtor(s):**

Silla Automotive, LLC

Represented By  
James R Selth

**Trustee(s):**

Richard K Diamond (TR)

Represented By  
Howard Kollitz  
Zev Shechtman  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1668 Calendar**

**Wednesday, April 22, 2020**

**Hearing Room 1668**

11:00 AM

**2:17-14364 Silla Automotive, LLC**

**Chapter 7**

**#103.00** Other: RKW & MLW FAMILY LTD PARTNERSHIP, II  
Hearing re [214] Trustees Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

4/20/2020

See Cal. No. 100, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Silla Automotive, LLC

Represented By  
James R Selth

**Trustee(s):**

Richard K Diamond (TR)

Represented By  
Howard Kollitz  
Zev Shechtman  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1668 Calendar**

**Wednesday, April 22, 2020**

**Hearing Room 1668**

11:00 AM

**2:17-14364 Silla Automotive, LLC**

**Chapter 7**

**#104.00** Other: TOP HAY, LLC

Hearing re [214] Trustees Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

4/20/2020

See Cal. No. 100, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Silla Automotive, LLC

Represented By  
James R Selth

**Trustee(s):**

Richard K Diamond (TR)

Represented By  
Howard Kollitz  
Zev Shechtman  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, April 22, 2020**

**Hearing Room 1668**

11:00 AM

**2:17-14364 Silla Automotive, LLC**

**Chapter 7**

**#105.00** Other: UNIVERSITY TECHNOLOGY CENTER

Hearing re [214] Trustees Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

4/20/2020

See Cal. No. 100, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Silla Automotive, LLC

Represented By  
James R Selth

**Trustee(s):**

Richard K Diamond (TR)

Represented By  
Howard Kollitz  
Zev Shechtman  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1668 Calendar**

Wednesday, April 22, 2020

Hearing Room 1668

11:00 AM

2:17-14364 Silla Automotive, LLC

Chapter 7

#106.00 Attorney for Trustee: DANNING GILL DIAMOND & KOLLITZ LLP

Hearing re [214] Trustees Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

4/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the fourth and final application for fees and expenses filed by this applicant, the Court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final):

Fees: \$9,963.62 approved [*see* Doc. No. 208] [**Note 1**]

Expenses: \$284.26 approved [*see id.*]

**Note 1:** The requested fees include an unpaid portion of \$8,234.12, which Applicant voluntarily held back, without prejudice to seek payment of such held-back fees at a later date. *See* Doc. No. 101.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the

**United States Bankruptcy Court  
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**CONT...**     **Silla Automotive, LLC**  
hearing.

**Chapter 7**

The Applicant shall submit a conforming order within seven days of the hearing.

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

**Debtor(s):**

Silla Automotive, LLC

Represented By  
James R Selth

**Trustee(s):**

Richard K Diamond (TR)

Represented By  
Howard Kollitz  
Zev Shechtman  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-16496 JW Wireless Inc.**

**Chapter 7**

Adv#: 2:18-01097 John J. Menchaca, Solely in his Capacity as Chapte v. CELLCO Partnership

**#1.00 Trial Date Set**

RE: [117] First Amended Complaint re Adversary case 2:18-ap-01097. Complaint by John J. Menchaca, Solely in his Capacity as Chapter 7 Trustee for the Bankruptcy Estate of JW Wireless, Inc. against CELLCO Partnership dba Verizon Wireless, a Delaware limited partnership, BJ Mobile, Inc., a California corporation, JETWORLD, Inc., a California corporation, JW Wireless OKC, an Oklahoma limited liability company, JWK Management, Inc., a California corporation, JETSTAR Auto Sports, Inc., a California corporation, Shaigan Ben Her, an individual, Lea Young Lee, an individual, Joan Yu, an individual, Chu Feng Yu, an individual, Carolyn Rhyoo, an individual. (Charge To Estate). with Adversary Cover Sheet and Summons and Notice of Status Conference Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)) (Eastmond, Thomas)

Docket 0

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-2-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

JW Wireless Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

CELLCO Partnership dba Verizon

Represented By  
Lawrence J Hilton  
Mark S Cander

BJ Mobile, Inc., a California

Represented By  
Kelvin J Lo

JETWORLD, Inc., a California

Represented By



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**JW Wireless Inc.**

**Chapter 7**

Gary M Jackson

JW Wireless OKC, an Oklahoma

Represented By  
Kelvin J Lo

JWK Management, Inc., a California

Represented By  
Michael H Yi

JETSTAR Auto Sports, Inc., a

Represented By  
Gary M Jackson

Shaigan Ben Her, an individual

Represented By  
Kelvin J Lo

Lea Young Lee, an individual

Represented By  
Gary M Jackson

Joan Yu, an individual

Represented By  
Kelvin J Lo

Chu Feng Yu, an individual

Represented By  
Kelvin J Lo

Carolyn Rhyoo, an individual

Pro Se

**Plaintiff(s):**

John J. Menchaca, Solely in his

Represented By  
Thomas J Eastmond  
Robert P Goe

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Robert P Goe  
Thomas J Eastmond

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-11795 Alana Gershfeld**

**Chapter 7**

Adv#: 2:19-01052 Dye v. Khasin et al

**#2.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01052. Complaint by Carolyn A Dye against Maria Khasin, Larry A. Khasin, M & L Living Trust. (Charge To Estate). Complaint: (1) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. §§ 544 And 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; And,(3) Automatic Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Gonzalez, Rosendo)

FR.1-27-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-27-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Alana Gershfeld

Represented By  
Alla Tenina

**Defendant(s):**

Maria Khasin

Pro Se

Larry A. Khasin

Pro Se

M & L Living Trust

Pro Se

**Plaintiff(s):**

Carolyn A Dye

Represented By  
Rosendo Gonzalez

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Rosendo Gonzalez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20374 Jenny Melendez**

**Chapter 7**

Adv#: 2:18-01429 Wesley H. Avery, Chapter 7 Trustee of the Bankrupt v. Jenny Melendez, an

**#3.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01429. Complaint by Wesley H. Avery, Chapter 7 Trustee of the Bankruptcy Estate of Jenny Melendez against Jenny Melendez, an individual, Clara E. Melendez. (Charge To Estate). Trustee's Complaint for: 1) A Declaratory Judgment Regarding Property of the Bankruptcy Estate; 2) Turnover; 3) Injunctive Relief; and 4) Sale of a Property in Which a Non-Debtor Asserts an Interest Nature of Suit: (91 (Declaratory judgment)),(11 (Recovery of money/property - 542 turnover of property)),(72 (Injunctive relief - other)),(31 (Approval of sale of property of estate and of a co-owner - 363(h))) (Lin, Zi)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-25-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jenny Melendez

Represented By  
Randolph R Ramirez

**Defendant(s):**

Jenny Melendez, an individual

Pro Se

Clara E Melendez, an individual

Pro Se

DOES 1-20

Pro Se

**Plaintiff(s):**

Wesley H. Avery, Chapter 7 Trustee

Represented By  
Adjoa Anim-Appiah  
Zi Chao Lin

**Trustee(s):**

Wesley H Avery (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT...**

**Jenny Melendez**

Zi Chao Lin

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-21250 Thomas Ernesto Merino**

**Chapter 7**

Adv#: 2:18-01460 Foreman v. Merino

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01460. Complaint by Star Rae Foreman against Thomas Ernesto Merino . 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)) (Del Mundo, Wilfredo) Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo). Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo).

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-27-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Thomas Ernesto Merino

Represented By

Kourosh M Pourmorady

**Defendant(s):**

Thomas Ernesto Merino

Pro Se

**Plaintiff(s):**

Star Rae Foreman

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-24737 Sang Hoon Lee**

**Chapter 7**

Adv#: 2:19-01143 United States Trustee for the Central District of v. Lee

**#5.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01143. Complaint by United States Trustee for the Central District of California, Region 16 against Sang Hoon Lee. (Fee Not Required). Nature of Suit: (65 (Dischargeability - other)) (Law, Dare)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 9-19-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Sang Hoon Lee

Represented By  
Michael H Yi

**Defendant(s):**

Sang Hoon Lee

Pro Se

**Plaintiff(s):**

United States Trustee for the Central

Represented By  
Dare Law

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01110      Nguyen dba Sam Bullion & Coin v. Zendedel

**#6.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01110. Complaint by Sam Thuy Nguyen dba Sam Bullion & Coin against Bahram Zendedel. 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)) (Tabibi, Nico)

Docket      1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 9/27/19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Sam Thuy Nguyen dba Sam Bullion

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01111 Danny's Silver Jewelry Inc., a California cor v. Zendedel

**#7.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01111. Complaint by Danny's Silver Jewelry Inc., a California corporation, dba Danny's Silver, Inc., dba Danny's Silver & Gold against Bahram Zendedel. 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)) (Tabibi, Nico)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-23-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Danny's Silver Jewelry Inc., a

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01114 Chady v. Zendedel

**#8.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01114. Complaint by Cyrus Chady, Bahram Zendedel against Bahram Zendedel. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Uyeda, James)

Docket 1

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-27-19

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Cyrus Chady

Represented By  
James S Uyeda

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#9.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01137. Complaint by G-Sight Solutions, LLC against Ryan James McMillin, G-Sight Solutions, Inc., a California Corporation. 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)),(14 (Recovery of money/property - other)) (Zshornack, Errol)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-25-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Pro Se

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Pro Se

G-Sight Solutions, LLC, a California

Pro Se

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-14528 Allen Joseph MacQuarrie**

**Chapter 7**

Adv#: 2:19-01144 Borish et al v. Tabingo et al

**#10.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01144. Complaint by Stephen & Ami Borish against Allen Joseph MacQuarrie. (d),(e)),(14 (Recovery of money/property - other)),(62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Bonar, Roxanne)

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED 8-24-20 AT 9:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Allen Joseph MacQuarrie

Represented By  
Shawn P Huston

**Defendant(s):**

Celgine Tabingo Pro Se

Clarke Miller Pro Se

KarmaBox Vending Pro Se

MyKarmabox.com Pro Se

Urban Vendor, Inc Pro Se

Does 1 Through 20, Inclusive Pro Se

Allan J Macquarrie Pro Se

**Plaintiff(s):**

Stephen Borish Pro Se

Ami Borish Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Allen Joseph MacQuarrie**

**Chapter 7**

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#11.00 Trial Date Set**

RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 1-27-20; 2-24-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-25-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, April 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#12.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Shinderman, Mark)

Docket 1

**\*\*\* VACATED \*\*\* REASON: TRIAL RE AMENDED COMPLAINT  
FILED 7/27/20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

U.S. Bank National Association

Pro Se

**Plaintiff(s):**

Official Committee of Unsecured

Represented By

Mark Shinderman

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, April 27, 2020**

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9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#13.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property)),91 (Declaratory judgment)) (Shinderman, Mark)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONT'D TO 1-27-20 at 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Pro Se

**Plaintiff(s):**

Official Committee of Unsecured

Represented By

Mark Shinderman



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, April 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24904 Nicholas Rene Ortiz**

**Chapter 7**

**#100.00** HearingRE: [14] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Debtor Nicholas Rene Ortiz.

Docket 14

**Tentative Ruling:**

4/23/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for Relief From the Automatic Stay Under 11 U.S.C. § 362 (Action in Nonbankruptcy Forum) [Doc. No. 14] (the "Motion")
2. Response to Motion Regarding the Automatic Stay and Declaration(s) in Support [Doc. No. 20] (the "Opposition")
3. As of the preparation of this tentative ruling, no reply is on file

**I. Facts and Summary of Pleadings**

Rene Nicholas Ortiz (the "Debtor"), filed this voluntary chapter 7 case on December 21, 2019 (the "Petition Date"). At the outset of the case, Sam S. Leslie accepted appointment as chapter 7 trustee (the "Trustee"). On March 18, 2020, Winfund Investment, LLC (the "Movant") filed this request for relief from the automatic stay pursuant to § 362(d)(1) to proceed with an action bearing the caption *Winfund Investment, LLC v. Rene J. Ortiz, et al.*, Case No. 19PSCV00211 (the "State Court Action") pending in Los Angeles County Superior Court (the "State Court"). Movant commenced the State Court Action on March 1, 2019 by filing a complaint against the Debtor, the Debtor's father, and various other non-debtor defendants asserting claims for breach of contract, promissory fraud, fraudulent transfer, and seeking injunctive relief

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**Nicholas Rene Ortiz**

**Chapter 7**

and the appointment of a receiver (the "Complaint"). According to the Complaint, Rene J. Ortiz ("Ortiz"), the Debtor's father, is connected with the ownership and/or operation of numerous business entities, at least one of which is owned by the Debtor. *See* Motion, Ex. 1 [the Complaint] at 1-4 (page citations follow the Complaint's original pagination). The Complaint alleges that Ortiz executed three promissory notes in favor of the Movant in connection with the purchase of three parcels of real property. *See id.* at 5-9. However, without Movant's knowledge or authorization, Ortiz purportedly either sold or borrowed against said real estate, using proceeds to acquire personal and real property. *See id.* In sum, the Complaint asserts that Ortiz fraudulently transferred these ill-gotten assets to the Debtor, the Debtor's business entity, and the other non-debtor defendants to impair Movant's collection efforts. *Id.* at 14. Trial is scheduled to begin on September 14, 2020.

The Movant makes the following arguments in support of relief from stay:

- Mandatory abstention applies under 28 U.S.C. § 1334(c)(2);
- The claims are nondischargeable in nature and can be most expeditiously resolved in the nonbankruptcy forum;
- The claims arise under nonbankruptcy law and can be most expeditiously resolved in the nonbankruptcy forum; and
- The Debtor filed this bankruptcy case in bad faith to delay or interfere with the prosecution of the State Court Action.

The Movant further claims that the Debtor sold the subject assets while the non-bankruptcy action was still pending and mere months before the Petition Date. The arguments and representations set forth in the Motion are supported by the declaration of Peiwan Chang, the Movant's counsel in the State Court Action.

On April 9, 2020, the Debtor filed a timely opposition to the Motion (the "Opposition"). The Debtor objects to the Motion, contending that the case was not filed in bad faith, that there is no proof of Debtor's liability, and that his alleged wrongdoing is derivative of the conduct of third parties. In support of the Opposition, the Debtor supplied his declaration, wherein he makes the following representations:

- Unlike his father, the Debtor denies having entered into any business transactions with the Movant;
- The Debtor challenges the allegation that he received fraudulently transferred

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assets from his father, and asserts that the Movant has failed to proffer any evidence supporting the claims raised in the Complaint;

- The Debtor claims that he secured loans from third parties to purchase his father's interests in various business operations (the "Businesses");
- Having become "worn" out by the pressures of being a business owner, the Debtor sold the Businesses to "third parties";
- Any assets that the Debtor could have obtained from his father were surrendered to the Trustee at the outset of the case;
- There are no grounds to have this bankruptcy case "derailed" to defend the State Court Action.

*See* Declaration of Nicholas Rene Ortiz, ¶¶ 2-5.

The Court notes that on March 23, 2020, the Debtor and the Trustee entered into a stipulation to extend the deadline to object to Debtor's discharge to May 22, 2020 [Doc. No. 16]. On March 24, 2020, the Court approved the stipulation.

As of the preparation of this tentative ruling, the Movant has not filed a reply in support of the Motion.

## **II. Findings of Fact and Conclusions of Law**

As a preliminary matter, a motion for relief from the automatic stay is a summary proceeding that does not involve an adjudication of the merits of the underlying claims. As recognized by the Ninth Circuit Bankruptcy Appellate Panel in *In re Luz Int'l, Ltd.*:

Given the limited grounds for obtaining a motion for relief from stay, read in conjunction with the expedited schedule for a hearing on the motion, most courts hold that motion for relief from stay hearings should not involve an adjudication of the merits of claims, defenses, or counterclaims, but simply determine whether the creditor has a colorable claim to the property of the estate. *See In re Johnson*, 756 F.2d 738, 740 (9th Cir.), *cert. denied*, 474 U.S. 828, 106 S.Ct. 88, 88 L.Ed.2d 72 (1985) ("Hearings on relief from the automatic stay are thus handled in a

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**Nicholas Rene Ortiz**

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summary fashion. The validity of the claim or contract underlying the claim is not litigated during the hearing.").

219 B.R. 837, 842 (9th Cir. BAP 1998) (citation omitted). In a summary proceeding, the court's discretion is broad. *In re Santa Clara Cty. Fair Ass'n, Inc.*, 180 B.R. 564, 566 (B.A.P. 9th Cir. 1995).

Section 362(d)(1) provides that "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay . . . (1) for cause . . . ." 11 U.S.C. § 362(d)(1). "What constitutes 'cause' for granting relief from the automatic stay is decided on a case-by-case basis." *Kronemyer v. Am. Contractors Indem. Co. (In re Kronemyer)*, 405 B.R. 915, 921 (B.A.P. 9th Cir. 2009); *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162, 1166 (9th Cir. 1990). "To obtain relief from the automatic stay, the party seeking relief must first establish a prima facie case that 'cause' exists for relief under § 362(d)(1)." *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551, 557 (Bankr. C.D. Cal. 2004). "Once a prima facie case has been established, the burden shifts to the debtor to show that relief from the stay is unwarranted." *Id.*

In the Ninth Circuit, courts consider 12 non-exclusive factors to determine whether "cause" exists to grant relief to allow an entity to continue pending litigation against a debtor in non-bankruptcy forum:

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 a fiduciary;
4. Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
5. Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
6. Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
7. Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested

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- parties;
8. Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c);
  9. Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);
  10. The interests of judicial economy and the expeditious and economical determination of litigation for the parties;
  11. Whether the foreign proceedings have progressed to the point where the parties are prepared for trial, and
  12. The impact of the stay on the parties and the "balance of hurt[.]"

*Plumberex*, 311 B.R. at 559. Not all the factors are relevant in every case, and the Court is not required to give equal weight to each factor. *Id.* at 560.

The Court finds that the Movant has established a prima facie case that "cause" exists to grant relief from stay under § 362(d)(1). First, granting stay relief will promote interests of judicial economy and avoid piecemeal or redundant litigation because the Movant aims to pursue claims against the Debtor in the State Court Action that are purportedly nondischargeable. Second, although the State Court is not a specialized tribunal established specifically to hear Movant's claims, the State Court is more intimately familiar with the parties' dispute and applicable California law to more expeditiously move the litigation to final judgment. Third, allowing the Movant to litigate the State Court Action will best promote the judicial economy by adjudicating a final judgment as to the underlying claims that may either support or negate the filing of a proof of claim, and/or continued prosecution of its outstanding adversary complaint [Note 1]. Finally, permitting the State Court Action to proceed will assist the Trustee to determine whether it is appropriate to bring an adversary action against the Debtor. While the Court acknowledges the Debtor's comments, the State Court will provide him with the forum in which to most efficiently defend against Movant's claims, thereby enabling him, if appropriate, to enjoy "the fresh start that this proceeding can provide."

Finally, the Court has reviewed the commencement documents, the Debtor's declaration, and the representations made by Movant in the Motion and in pleadings submitted to the State Court Action to assess whether this case was filed in bad faith. On the present record, the Court is unable to reach a finding that the Debtor filed this case to hinder and delay the State Court Action from proceeding to trial.

Based on the foregoing, the Court GRANTS the Motion pursuant to 11 U.S.C. §

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**CONT... Nicholas Rene Ortiz**

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362(d)(1) to permit the Movant to proceed under applicable non-bankruptcy law to enforce its remedies to proceed to final judgment in the non-bankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or estate property. The Debtor's Opposition is overruled. Movant may not pursue any deficiency claim or any other claim against the Debtor or property of the estate, except that the Movant will retain the right to file a proof of claim, and Movant's rights are preserved with respect to its adversary complaint filed under §§ 523 and 727 (*Windfund Investment, LLC v. Nicholas Rene Ortiz*, 2:20-ap-01024-ER) (to the extent applicable). This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

The Court also finds it appropriate to waive the 14-day stay prescribed by Federal Rule 4001(a)(3). All other relief is denied.

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

The Movant is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** On February 6, 2020, the Movant filed an adversary proceeding objecting to the Debtor's discharge under §§ 523 and 727, which bears the caption *Windfund Investment, LLC v. Nicholas Rene Ortiz*, 2:20-ap-01024-ER.

**Party Information**

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**CONT... Nicholas Rene Ortiz**

**Chapter 7**

**Debtor(s):**

Nicholas Rene Ortiz

Represented By  
Daniel G McMeekin

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
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**2:20-11398 Ernie Armijo, Jr.**

**Chapter 7**

**#101.00** HearingRE: [21] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: (at least \$200,000 in real estate investment & lawsuit costs & fees arising from fraudulent act by Debtor) (with Proof of Service).

Docket 21

**Tentative Ruling:**

4/23/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2) . The failure of the debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The motion is granted pursuant to 11 U.S.C. § 362(d)(1) to permit movant to proceed under applicable non-bankruptcy law to enforce its remedies to proceed to final judgment in the non-bankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or estate property.

The 14-day period specified in Fed.R.Bankr.P. 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the Unites States Code. All other relief is denied.



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**CONT... Ernie Armijo, Jr.**

**Chapter 7**

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Ernie Armijo Jr.

Represented By  
Daniel King

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#1.00 Hearing re [4469] Objection to Claim Cure notice filed by Parallon Revenue Cycle Services, Inc. F/K/A The Outsource Group, Inc**

**FR. 4-9-20**

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing RE: [4443] Objection to Claim Cure notice filed by Creditor PIH Health Hospital Downey and PIH Health Hospital - Whittier

fr. 4-9-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#3.00** Hearing RE: [4354] Objection to Claim Cure notice filed by UnitedHealthcare Insurance Company

FR. 4-9-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00** Hearing Objection to Claim Cure notice filed byDaVita Inc. [Docket No. 4407];

FR. 4-9-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** Hearing Objection to Claim Cure notice filed by Kaiser Foundation Hospitals  
[Docket No. 4422];

FR. 4-9-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** Hearing Objection to Claim Cure notice filed by AT&T Corporation and AT&T Services, Inc. [Docket No. 4424];

FR. 4-9-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**Chapter 11**

**#7.00** Hearing Objection to Claim Cure notice filed by Angeles IPA Medical Group  
[Docket No. 4425];

FR. 4-9-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#8.00** Hearing Objection to Claim Cure notice filed by Long Beach Memorial Medical Center [Docket No. 4427];

FR. 4-9-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#9.00** Hearing Objection to cure amount asserted by: GE HFS, LLC [Docket No. 4371]

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**Chapter 11**

**#10.00** Hearing Objection to cure amount asserted by: AppleCare Medical Group, Inc., AppleCare Medical Group, St. Francis Inc., and AppleCare Medical Management LLC [Docket No. 4391]

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#11.00** Hearing Objection to cure amount asserted by: Hooper HealthcareConsulting LLC  
[Docket No. 4392];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#12.00** Hearing Objection to cure amount asserted by: Aetna Life Insurance Company [Docket No. 4403];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#13.00** Hearing Objection to cure amount asserted by: Microsoft Corporation and Microsoft Licensing, GP [Docket No. 4405]

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#14.00** Hearing Objection to cure amount asserted by: MedImpact Healthcare Systems, Inc.  
[Docket No. 4408];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#15.00** Hearing Objection to cure amount asserted by: Abbott Laboratories Inc. and Abbot Rapid Diagnostics Informatics, Inc. fka Alere Informatics, Inc. [Docket No. 4409];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#16.00** Hearing Objection to cure amount asserted by: Roche Diagnostics Corporation [Docket No. 4406];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#17.00** Hearing Objection to cure amount asserted by: SCAN Health Plan, [Docket No. 4414];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#18.00** Hearing Objection to cure amount asserted by: Cerner Corporation [Docket No. 4415];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#19.00** Hearing Objection to cure amount asserted by: Smith & Nephew, Inc. [Docket No. 4416];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, April 29, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#20.00 Hearing Objection to cure amount asserted by: Cardinal Health 200, LLC [Docket No. 4418];

fr. 4-9-20

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#21.00** Hearing Objection to cure amount asserted by: Health Net of California, Inc. [Docket No. 4419];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#22.00** Hearing Objection to cure amount asserted by: Blue Shield of California Promise Health Plan f/k/a Care 1st Health Plan [Docket No. 4420];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#23.00** Hearing Objection to cure amount asserted by: California Physicians Service dba Blue Shield of California [Docket No. 4421];

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#24.00** Hearing Objection to cure amount asserted by: Humana Insurance Company and Humana Health Plan, Inc. [Docket No. 4423].

fr. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#25.00** Hearing re [4394] Assumption Objection Hearing re sale of St. Vincent Medical Center

fr. 4-1-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#26.00** Hearing re [4366] Objection Of Cigna Entities To Notice To Counterparties To Executory Contracts And Unexpired Leases Of The Debtors That May Be Assumed And Assigned

FR. 4-9-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#27.00** Hearing re [4533] Assumption of Net Lease with the State of California

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-28-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, April 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#28.00** Hearing re 3M Corporation's Limited Objection To Assumption  
And Assignment Of Executory Contracts [Relates To Docket Nos. 4069, 4267,  
4428, And 4432]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-12677 Green Jane Inc**

**Chapter 7**

**#1.00**

Hearing

RE: [239]] Objection to Claim #24 by Claimant Brian Ferratto. in the amount of \$ 446,750.00

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-28-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos  
Jeffrey A Krieger

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-12677 Green Jane Inc**

**Chapter 7**

**#1.10** Hearing re [242] Chapter 7 Trustee's Omnibus Objection To The Following Duplicate And/Or Erroneously Filed Proofs Of Claim: 1) Claim No. 13 As A Duplicate Of Claim No. 32 Filed By George Cretella 2) Claim No. 22 As A Duplicate Of Claim 34 Filed By Alexis Sidoff 3) Claim No. 33 As A Duplicate Of Claim No. 4 Filed By John Foulk

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-28-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos  
Jeffrey A Krieger

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-13731 Samuel Antonio Acevedo and Lucy Acevedo**

**Chapter 11**

**#2.00** Show Cause Hearing re [113] Debtors are directed to appear by telephone<sup>1</sup> and show cause why this case should not be converted or dismissed under 11 U.S.C. § 1112(b)(4)(E) or (J), in view of the Debtors' failure to comply with the instructions of the Court.

Docket 0

**Tentative Ruling:**

5/1/2020

No appearances required. This is a hearing on the Court's *Order Requiring Debtors to Show Cause Why This Case Should Not be Dismissed or Converted* [Doc. No. 113] (the "OSC"). The Court has reviewed the Debtors' response to the OSC [Doc. No. 120] and, based thereon, finds it appropriate to CONTINUE the OSC hearing to **July 22, 2020 at 10:00 a.m.** The Court will enter an order setting new dates and deadlines governing confirmation of Debtors' Third Amended Plan of Reorganization. The confirmation hearing will take place concurrently with the continued OSC hearing.

**Party Information**

**Debtor(s):**

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-16078 David Christopher Brady**

**Chapter 11**

**#3.00** HearingRE: [132] Motion to Dismiss Debtor and Chapter 11 Bankruptcy Case

Docket 132

**Tentative Ruling:**

5/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED, and the case is dismissed.

**Pleadings Filed and Reviewed**

1. Motion by Debtor in Possession to Dismiss Chapter 11 Case [Doc. No. 132] (the "Motion")
2. Notice of the Motion [Doc. No. 133]
3. Notice of Motion and Motion to Approve Post-Petition Financing Pursuant to 11 U.S.C. §§ 363 and 364(c) [Doc. No. 112] (the "Financing Motion")
4. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, David Christopher Brady (the "Debtor"), filed this voluntary chapter 11 case on May 24, 2019 (the "Petition Date"). The Debtor's largest asset consists of real property located at 1511 Summitridge Drive, Los Angeles, CA 90210 (the "Property"). The Debtor's chapter 11 filing was precipitated by financing and construction issues arising from the Property's remodel, which led to disputes with contractors, subcontractors, and the Property's then-senior lienholder, Banc of California ("Banc"). The Debtor decided to file the instant bankruptcy case prior to a looming foreclosure sale that Banc had refused to postpone. Declaration of David Christopher Brady, ¶ 2. On or about December 19, 2019, the Banc transferred its interest in the Property to Fairview Loans IV, LLC ("Fairview"). As of the filing of

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 5, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... David Christopher Brady**

**Chapter 11**

the Motion, Fairview is the Debtor's largest creditor, which holds a claim totaling approximately \$2,876,621.94. *See* Financing Motion [Doc. No. 112], Brady Decl., ¶ 5. The Property is also encumbered by the following liens:

- a second-priority lien held by Kindness General Contractors, LLC ("Kindness") in the amount of \$144,596.20, which the Debtor disputes;
- and a third-priority lien held by the Los Angeles County Treasurer & Tax Collector ("LACTTC") in the amount of \$40,040.63.

*See id.*

From the outset of his case, the Debtor has taken the following steps to address outstanding financial obligations. On October 2, 2019, the Court approved the Debtor's settlement agreement with three subcontractors, pursuant to which, said subcontractors released mechanics liens against the Property [Doc. No. 54]. Additionally, on March 2, 2020, the Debtor filed the Financing Motion, by which the Debtor sought authorization to enter into a post-petition refinance loan on the Property that would enable him to pay off or bond most of the liens asserted thereon. *See* Financing Motion at 5-7. More specifically, the Debtor requested to (1) use loan proceeds to pay most of Fairview's claim, thereby discharging its lien; (2) grant Marquee Funding Group, Inc. (the "Lender") a first-priority lien on the Property; (3) grant Fairview a \$325,000 carryback note secured by a second-priority lien on the Property; and (4) issue a \$177,035 bond to secure the disputed claim held by Kindness. On April 9, 2020, the Court entered an order approving the Financing Motion.

On April 14, 2020, the Debtor filed the Motion, asking for the dismissal of his bankruptcy case in the best interest of the estate. In addition to the foregoing, the Motion asserts that the Debtor's remaining unsecured and priority tax claims (the "Remaining Claims") have been paid off or will be paid outside of bankruptcy following dismissal. Aside from the Court-approved treatment of Fairview's claim and Kindness's disputed claim, the Debtor intends to repay the Remaining Claims in full. As such, no creditor will experience prejudice by the dismissal of the case. Further, the Debtor argues that Kindness's claim is essentially a two-party dispute, which, according to supporting case law, requires the Court's abstention and bolsters the argument for dismissal. *See* Motion at 4 (citing to *St. Paul Self Storage Ltd. P'ship v. The Port Auth. Of the City of St. Paul*, 185 B.R. 580, 583 (B.A.P. 9th Cir. 1995)). In sum, the Debtor submits that a chapter 11 proceeding is no longer required as the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 5, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... David Christopher Brady**

**Chapter 11**

claim of his largest creditor, Fairview, has been resolved, the Kindness claim will be addressed outside of bankruptcy, and all other claims will be fully paid off. Therefore, dismissal best serves the interests of creditors, as doing so circumvents the need to incur further administrative expenses and legal fees.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Under § 1112(b), the Court shall dismiss or convert a case to one under chapter 7 upon a showing of cause. A "[d]ebtor's request [to voluntarily dismiss a Chapter 11 bankruptcy case] should ordinarily be granted unless some 'plain legal prejudice' will result to creditors." *In re Kimble*, 96 B.R. 305, 308 (Bankr. D. Mont. 1988), *quoting In re Geller*, 74 B.R. 685, 688-689 (Bankr. E.D. Pa. 1987); *In re Hall*, 15 B.R. 913, 915-916 (9th Cir. BAP 1981). The Court finds that the Debtor has standing to bring a motion to dismiss, since it is a "party in interest" 11 U.S.C. § 1109(b).

Here, dismissal best serves the interests of the creditors and the estate. Because the Debtor has either resolved or intends to address all outstanding claims outside of bankruptcy, and noting the lack of any objection, the Court determines that maintaining this case in bankruptcy will incur needless administrative expenses. Furthermore, the Court notes that the Debtor has already availed himself of bankruptcy relief by, *inter alia*, securing the refinance of the Property, paying off the majority of secured claims, negotiating settlements to discharge several mechanics liens against the Property, and taking significant steps to resolve Kindness's disputed claim. Having reviewed the Debtor's declaration attached to the Motion, the Court notes that the Debtor intends to repay all Remaining Claims. Brady Decl., ¶ 6. In sum, the Court finds that it is in the best interests of creditors and the estate to dismiss this case. On the record before it, the Court further finds that no purpose would be served by converting this case to a case under chapter 7. Additionally, there being no objection to the Motion, the Court presumes interested parties consent to the granting of the requested relief pursuant to LBR 9013-1(h).

Finally, as there are no other matters pending in this case, the Court will only retain jurisdiction to consider approval and payment of professional fees and outstanding administrative expenses.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 5, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... David Christopher Brady**

**Chapter 11**

**III. Conclusion**

For the reasons set forth above, the Motion is GRANTED and the case is dismissed.

The Debtor is directed to lodge a proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

David Christopher Brady

Represented By  
Leslie A Cohen

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, May 6, 2020

Hearing Room 1568

10:00 AM

**2:15-16111 Jung Hee Choi**

**Chapter 7**

Adv#: 2:15-01381 DOOIN INDUSTRIAL CORPORATION, a foreign corporatio v. Choi

**#1.00** Hearing re [110] Application for Appearance and Examination/Enforcement of Judgment/Judgment Debtor ***Sun Kyung Lee, aka Sunny Lee, dba Piussance Textile Company.***

fr. 1-8-20; 3-18-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-22-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Jung Hee Choi

Represented By  
Kelly K Chang

**Defendant(s):**

Jung Hee Choi

Pro Se

**Plaintiff(s):**

DOOIN INDUSTRIAL

Represented By  
Nico N Tabibi

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:15-16111 Jung Hee Choi**

**Chapter 7**

Adv#: 2:15-01381 DOOIN INDUSTRIAL CORPORATION, a foreign corporatio v. Choi

**#2.00** Hearing re re [109] Appearance and Examination/Enforcement of Judgment/Judgment debtor ***JUNG HEE CHOI, AKA JUNG HEE LEE, DBA THE HUGE TREE***

fr. 1-8-20; 3-18-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-22-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Jung Hee Choi

Represented By  
Kelly K Chang

**Defendant(s):**

Jung Hee Choi

Pro Se

**Plaintiff(s):**

DOOIN INDUSTRIAL

Represented By  
Nico N Tabibi

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01051 California Nurses Association v. VERITY HEALTH SYSTEM OF

**#3.00** Hearing  
RE: [12] Motion to Dismiss Adversary Proceeding /Complaint Under Rule 12(b)  
With Prejudice

Docket 12

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-23-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**Defendant(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Tania M Moyron

ST. VINCENT MEDICAL

Represented By  
Tania M Moyron

St. Vincent Dialysis Center, Inc.

Represented By  
Tania M Moyron

ST. FRANCIS MEDICAL

Represented By  
Tania M Moyron

Seton Medical Center, a California

Represented By  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 6, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Verity Holdings, LLC, a California      Represented By  
Tania M Moyron

De Paul Ventures, LLC      Represented By  
Tania M Moyron

Richard Adcock      Represented By  
Tania M Moyron  
Marco Quazzo

Steven Sharrer      Represented By  
Tania M Moyron  
Marco Quazzo

St. Francis Medical Center of      Represented By  
Tania M Moyron

Does 1 through 500      Represented By  
Tania M Moyron

**Plaintiff(s):**

California Nurses Association      Represented By  
Carol A Igoe  
Kyrsten Skogstad



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01051 California Nurses Association v. VERITY HEALTH SYSTEM OF

**#4.00** Hearing  
RE: [13] Motion to Dismiss Adversary Proceeding and Joinder in Debtors' Motion to Dismiss Complaint Pursuant to Rule 12(b)(6)

Docket 13

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-23-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**Defendant(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Tania M Moyron

ST. VINCENT MEDICAL

Represented By  
Tania M Moyron

St. Vincent Dialysis Center, Inc.

Represented By  
Tania M Moyron

ST. FRANCIS MEDICAL

Represented By  
Tania M Moyron

Seton Medical Center, a California

Represented By  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 6, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Verity Holdings, LLC, a California      Represented By  
Tania M Moyron

De Paul Ventures, LLC      Represented By  
Tania M Moyron

Richard Adcock      Represented By  
Tania M Moyron  
Marco Quazzo

Steven Sharrer      Represented By  
Tania M Moyron  
Marco Quazzo

St. Francis Medical Center of      Represented By  
Tania M Moyron

Does 1 through 500      Represented By  
Tania M Moyron

**Plaintiff(s):**

California Nurses Association      Represented By  
Carol A Igoe  
Kyrsten Skogstad

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 6, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-19855 Lux Beauty Group, Inc.**

**Chapter 7**

**#100.00 APPLICANT: JASON M. RUND, TRUSTEE**

Hearing re [57] Trustee's Final Report and Applications for Compensation

Docket 0

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

**Debtor(s):**

Lux Beauty Group, Inc.

Represented By  
Anthony A Friedman  
Kurt Ramlo

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 6, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-19855 Lux Beauty Group, Inc.**

**Chapter 7**

**#101.00 APPLICANT: DIANE C. WEIL, ATTORNEY FOR TRUSTEE**

Hearing re [57] Trustee's Final Report and Applications for Compensation

Docket 0

**Party Information**

**Debtor(s):**

Lux Beauty Group, Inc.

Represented By  
Anthony A Friedman  
Kurt Ramlo

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 6, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-19855 Lux Beauty Group, Inc.**

**Chapter 7**

**#102.00** Other: FRANCHISE TAX BOARD

Hearing re [57] Trustee's Final Report and Applications for Compensation

Docket 0

**Party Information**

**Debtor(s):**

Lux Beauty Group, Inc.

Represented By  
Anthony A Friedman  
Kurt Ramlo

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 6, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-19855 Lux Beauty Group, Inc.**

**Chapter 7**

**#103.00** APPLICANT: Accountant for Trustee: HAHN FIFE & COMPANY LLP

Hearing re [57] Trustee's Final Report and Applications for Compensation

Docket 0

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

**Debtor(s):**

Lux Beauty Group, Inc.

Represented By  
Anthony A Friedman  
Kurt Ramlo

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Diane C Weil

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, May 6, 2020

Hearing Room 1568

11:00 AM

2:18-24265 Neilla M Cenci

Chapter 7

#104.00 Hearing re [27] *Creditor Ball C M, Incs Notice Of Objection To Claim Of Homestead Exemption And Objection To Homestead Exemption Claim*

fr. 5-8-19; 9-18-19; 3-18-20

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-20 AT 11:00 A.M.

**Party Information**

**Debtor(s):**

Neilla M Cenci

Represented By  
James R Selth

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13599 Osiris Galindo and Guadalupe Galindo**

**Chapter 7**

**#1.00** Hearing  
RE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Honda Accord, VIN: 1HGC R2F5 1FA2 31415 .

Docket 12

**Tentative Ruling:**

5/7/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Osiris Galindo and Guadalupe Galindo**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Osiris Galindo

Represented By  
Steven B Lever

**Joint Debtor(s):**

Guadalupe Galindo

Represented By  
Steven B Lever

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

: **Chapter 0**  
Adv#: 2:18-01221      National Union Fire Insurance Company of Pittsburgh v. Allianz Underwriters

**#1.00**      Status Conference  
RE: [11] Motion to Change Venue/Inter-district Transfer Adversary Proceeding  
to W.D. Wash. (Plevin, Mark)

fr: 8-15-18; 11-13-18; 2-12-19; 6-11-19; 12-10-19

Docket      11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Defendant(s):**

Allianz Underwriters Insurance	Pro Se
Century Indemnity Company	Represented By Mark D Plevin
Certain Underwriters at Lloyd's, Hartford Accident And Indemnity	Pro Se Represented By Philip E Smith
The Travelers Indemnity Company	Pro Se
Zurich American Insurance Co.	Pro Se

**Plaintiff(s):**

National Union Fire Insurance	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01409 Elissa D. Miller, solely in her capacity as chapte v. Hankey Capital, LLC, a

**#2.00 Status Hearing**

RE: [1] Adversary case 2:18-ap-01409. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Hankey Capital, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 3-19-19; 6-11-19; 8-13-19; 10-15-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/13/2020

On October 24, 2019, the Court entered an *Order (1) Setting Continued Status Conference for January 14, 2020 at 10:00 a.m. and (2) Setting Litigation Deadlines* (the "Scheduling Order") [Doc. No. 35]. The Chapter 7 Trustee (the "Trustee") has granted the Defendant an extension of time to respond to the Complaint, terminable by the Trustee, while the parties discuss settlement.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines set by way of the Scheduling Order shall continue to apply, subject to an extension for good cause shown.
- 2) A continued Status Conference shall be held on **May 12, 2020, at 10:00 a.m.** The parties shall submit a Joint Status Report by no later than fourteen days prior to the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Hankey Capital, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01385 Mastan, Chapter 7 Trustee v. US Bank, N.A. et al

**#3.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01385. Complaint by Peter J. Mastan, Chapter 7 Trustee against US Bank, N.A., Kenny Hwang, Hee Jung Lee. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

US Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

Hee Jung Lee

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#4.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01386. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Pro Se

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#5.00** Status Hearing

RE: [11] Crossclaim by HSBC Bank, N.A. against Jason Young Cho, Youngduk Duk Cho

fr: 1-14-20; 3-17-20

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Represented By  
Jennifer Witherell Crastz

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01388 Mastan, Chapter 7 Trustee v. Bank of America, N.A. et al

**#6.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01388. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of America, N.A.. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of America, N.A.

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT...**

**Keystone Textile, Inc.**

Meghann A Triplett  
Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01392 Mastan v. Flintridge Preparatory School, Inc. et al

**#7.00 Status Hearing**

RE: [37] Amended Complaint First Amended Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (4) Preservation of Avoided Transfer [11 U.S.C. § 551] by Meghann A Triplett on behalf of Peter Mastan against Flintridge Preparatory School, Inc., Nam Soo Hwang, Young J. Hwang, Young Jae Hwang. (RE: related document(s)1 Adversary case 2:19-ap-01392. Complaint by Peter Mastan against Flintridge Preparatory School, Inc., Hee Young Hwang, Young J. Hwang, Joyce J. Hwang, Nam Soo Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) filed by Plaintiff Peter Mastan). (Triplett, Meghann)

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Flintridge Preparatory School, Inc.

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Joyce J. Hwang

Represented By  
Christian T Kim

Nam Soo Hwang

Represented By  
Christian T Kim

DOES 1 through 10

Pro Se

Hee Young Hwang

Represented By  
Christian T Kim

Young J. Hwang

Represented By  
Christian T Kim

Young Jae Hwang

Represented By  
Christian T Kim

Hee Youn Hwang

Represented By  
Christian T Kim

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01393 Mastan, Chapter 7 Trustee v. Hwang et al

**#8.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01393. Complaint by Peter J. Mastan, Chapter 7 Trustee against In Young Hwang, Twig & Twine, Inc., Danielle Steckler. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

In Young Hwang

Pro Se

Twig & Twine, Inc.

Pro Se

Danielle Steckler

Pro Se

DOES 1 through 10

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01397 Mastan, Chapter 7 Trustee v. Kim et al

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01397. Complaint by Peter J. Mastan, Chapter 7 Trustee against Ji Young Kim, Does 1 - 10, inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

fr: 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-28-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Ji Young Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01399 Mastan, Chapter 7 Trustee v. Hwang

**#10.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01399. Complaint by Peter J. Mastan, Chapter 7 Trustee against Hyun Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 12-4-19; 2-11-20; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the “Trustee”) commenced this fraudulent transfer action against Hyun Hwang (the “Defendant”) on September 14, 2019. On December 11, 2019, the Court denied the Defendant’s Motion to Dismiss, and ordered the Defendant to file an Answer by no later than January 21, 2020. Doc. No. 25. Defendant timely filed an Answer. The Trustee seeks leave to file a First Amended Complaint to allege an additional \$80,000 transfer from the Debtor to the Defendant.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In the event that Defendant declines to stipulate to the filing of a First Amended Complaint, the Trustee shall file a motion for leave to amend by no later than **March 10, 2020**.
- 2) A continued Status Conference is set for **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.

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Central District of California  
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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Hyun Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01400 Mastan, Chapter 7 Trustee v. Hwang et al

**#11.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01400. Complaint by Peter J. Mastan, Chapter 7 Trustee against Mirea Rea Hwang, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 11-26-19; 12-4-19; 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the "Trustee") commenced this fraudulent transfer action against Mirea Rea Hwang (the "Defendant") on September 14, 2019. On December 4, 2019, the Court conducted a hearing on the Defendant's Motion to Dismiss. The Court found that adjudication of the Complaint would violate the automatic stay arising in the bankruptcy petition filed by Defendant's spouse, Kenny Hwang ("K. Hwang"). The Court ordered that the action would be stayed, unless and until the Trustee obtained relief from the automatic stay in K. Hwang's bankruptcy case.

The Trustee has not moved for stay relief in K. Hwang's bankruptcy case. A continued meeting of creditors in K. Hwang's bankruptcy case is set for February 12, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **May 12, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to

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Los Angeles  
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**CONT...**      **Keystone Textile, Inc.**  
the hearing.

**Chapter 7**

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Mirea Rea Hwang

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01396 Mastan, Chapter 7 Trustee v. Flintridge Preparatory School, Inc. et al

**#12.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01396. Complaint by Peter J. Mastan, Chapter 7 Trustee against Flintridge Preparatory School, Inc., Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Flintridge Preparatory School, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
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**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01404 Mastan, Chapter 7 Trustee v. Hwang et al

**#13.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01404. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Mirea Rea Hwang, Hyun Hwang, Tri Blossom, LLC, K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery from Subsequent Transferee [11 U.S.C. §§ 544, 548]; (5) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; (6) Conspiracy to Defraud [11 U.S.C. § 105(a)]; (7) For Recovery of Illegal Dividends [Cal. Corp. Code §§ 500, 501 and 506]; and (8) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Triplett, Meghann)

FR. 11-19-19; 12-4-19; 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the "Trustee") filed this fraudulent transfer action against Kenny Hwang ("K. Hwang"), Mirea Hwang ("M. Hwang"), Hyun Hwang ("H. Hwang"), Tri Blossom, LLC, and K2 America, Inc. (collectively, the "Defendants") on September 15, 2019. On December 4, 2019, the Court conducted a hearing on a Motion to Dismiss brought by Defendants K. Hwang, M. Hwang, H. Hwang, and Tri Blossom LLC. The Court found that adjudication of the Complaint would violate the automatic stay arising in the bankruptcy petition filed K. Hwang. The Court ordered that the action would be stayed, unless and until the Trustee obtained relief from the

**United States Bankruptcy Court  
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**CONT... Tbetty, Inc.**

**Chapter 7**

automatic stay in K. Hwang's bankruptcy case.

The Trustee has not moved for stay relief in K. Hwang's bankruptcy case. A continued meeting of creditors in K. Hwang's bankruptcy case is set for February 12, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **May 12, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Hyun Hwang

Pro Se

Tri Blossom, LLC

Pro Se

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

Mi Rae Hwang

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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Courtroom 1568 Calendar**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01034 Howard M. Ehrenberg, Chapter 7 Trustee v. Juwono

**#14.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01034. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Sugio Juwono. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

Docket 1

**\*\*\* VACATED \*\*\* REASON: COTNINUED 8-11-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By

Jose-Manuel A DeCastro

Jonathan N Helfat

**Defendant(s):**

Sugio Juwono

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By

Steven Werth

Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Marsha A Houston

Steven Werth

Mark S Horoupian

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Hearing Room 1568**

10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01035 Howard M. Ehrenberg, Chapter 7 Trustee v. Lee

**#15.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01035. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Heidi Lee. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

Heidi Lee

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston  
Steven Werth  
Mark S Horoupian

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01036 Howard M. Ehrenberg, Chapter 7 Trustee v. Leem

**#16.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01036. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Alvin Leem. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6-16-20 AT 10:00 AM**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

Alvin Leem

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston  
Steven Werth  
Mark S Horoupian

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01037      Howard M. Ehrenberg, Chapter 7 Trustee v. Park

**#17.00**      Status Hearing  
RE: [1] Adversary case 2:20-ap-01037. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Justin Park. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

Justin Park

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston  
Steven Werth  
Mark S Horoupian

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, May 12, 2020**

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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01038 Howard M. Ehrenberg, Chapter 7 Trustee v. Poon

**#18.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01038. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against David Poon. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 AM..**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By

Jose-Manuel A DeCastro

Jonathan N Helfat

**Defendant(s):**

David Poon

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By

Steven Werth

Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Marsha A Houston

Steven Werth

Mark S Horoupian



**United States Bankruptcy Court  
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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01039 Howard M. Ehrenberg, Chapter 7 Trustee v. Wong

**#19.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01039. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Anthony Wong. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By

Jose-Manuel A DeCastro

Jonathan N Helfat

**Defendant(s):**

Anthony Wong

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By

Steven Werth

Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Marsha A Houston

Steven Werth

Mark S Horoupian

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-12437 Wardine Bridges**

**Chapter 7**

Adv#: 2:19-01336 Rund v. Rosborough

**#20.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01336. Complaint by Jason M. Rund against Mary Rosborough. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Chung, Toan)

fr: 12-10-19; 3-10-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 3-11-20**

**Tentative Ruling:**

12/6/2019

The Clerk of the Court entered Defendant's default on November 27, 2019. Doc. No. 13. The Chapter 7 Trustee has engaged in settlement discussions with one of the Defendant's relatives, Dominic Anderson. The parties have agreed upon a settlement amount, but it is unclear whether Anderson can fund the settlement.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The deadline for Anderson to demonstrate to the Trustee's satisfaction that he has the ability to fund the contemplated settlement is **January 31, 2020**.
- 2) If Anderson demonstrates the ability to fund the settlement, the Trustee shall file a Bankruptcy Rule 9019 Motion by no later than **February 14, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 3) If Anderson cannot fund the settlement, the Trustee shall file a Motion for Default Judgment by no later than **February 14, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 4) A continued Status Conference shall be held on **March 10, 2020, at 10:00 a.m.** The Trustee shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event the matter is resolved, the continued Status Conference will go off calendar.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Wardine Bridges**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Wardine Bridges	Pro Se
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**Defendant(s):**

Mary Rosborough	Pro Se
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**Plaintiff(s):**

Jason M. Rund	Represented By Toan B Chung
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**Trustee(s):**

Jason M Rund (TR)	Represented By Toan B Chung
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**United States Bankruptcy Court  
Central District of California  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01111 Danny's Silver Jewelry Inc., a California cor v. Zendedel

**#21.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01111. Complaint by Danny's Silver Jewelry Inc., a California corporation, dba Danny's Silver, Inc., dba Danny's Silver & Gold against Bahram Zendedel. 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)) (Tabibi, Nico)

fr: 8-13-19; 10-15-19; 1-14-20; 3-10-20

Docket 1

**Tentative Ruling:**

5/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On April 18, 2019, Danny's Silver Jewelry, Inc. ("Plaintiff") filed a *Complaint to Determine Dischargeability of a Debt and Objection to Discharge* [Doc. No. 1] (the "Complaint") against Bahram Zendedel aka Robert Zendedel ("Defendant"). The Complaint asserts claims under § 523(a)(2)(A), (a)(4), and (a)(6) and under § 727(a)(2)(A), (a)(3), and (a)(5).

On February 28, 2020, Plaintiff and Defendant filed a stipulation providing for settlement of the § 523 claims and dismissal of the § 727 claims (the "Stipulation"). In settlement of the § 523 claims, Plaintiff and Defendant stipulated to (1) a judgment in the amount of \$37,600.61 in favor of Plaintiff (the "Judgment") and (2) dismissal of the § 727 claims. The Stipulation provided that the Judgment (a) would be deemed fully satisfied if Defendant paid Plaintiff the sum of \$30,000 by May 1, 2020 and (b) would not be enforced until May 1, 2020.

On April 14, 2020, the Court granted the motion of the United States Trustee (the

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**CONT...**

**Bahram Zendedel**

**Chapter 7**

"UST") to intervene in this adversary proceeding with respect to the § 727 claims, and set litigation deadlines with respect to the § 727 claims. Doc. Nos. 32 and 33. Because it was not clear from the Stipulation whether the settlement of Plaintiff's § 523 claims was contingent upon dismissal of the § 727 claims, the Court ordered Plaintiff to file a notice stating whether the parties intended to adhere to the remaining terms of the § 523 settlement notwithstanding the fact that the § 727 claims had not been dismissed. The Court stated that if the parties did not elect to adhere to the remaining terms of the § 523 settlement, it would set litigation deadlines regarding the § 523 claims at the Status Conference set for May 12, 2020.

On April 30, 2020, Plaintiff and Defendant filed a Joint Status Report, which states that the parties intend to adhere to the terms of the § 523 settlement notwithstanding the Trustee's intervention as to the § 727 claims.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The Stipulation is **APPROVED**, except that the May 1, 2020 deadline for Defendant to pay Plaintiff \$30,000 in full satisfaction of the Judgment must be extended in view of the delay resulting from the UST's intervention. The deadline for Defendant to make the \$30,000 payment shall be extended to and including **June 15, 2020**. The corresponding provision stating that Plaintiff shall not enforce the Judgment prior to May 1, 2020 is likewise extended; Plaintiff shall not enforce the Judgment prior to **June 15, 2020**.
- 2) By no later than **May 19, 2020**, Plaintiff shall submit a proposed form of judgment consistent with the Stipulation as modified by ¶ 1.
- 3) The litigation deadlines previously set with respect to the § 727 claims shall remain in effect. No additional Status Conferences will be conducted absent further order of the Court.

The Court will prepare and enter an order approving the Stipulation. Plaintiff shall submit a proposed form of judgment consistent with the Stipulation by no later than **May 19, 2020**.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.**

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**CONT... Bahram Zendedel**

**Chapter 7**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Danny's Silver Jewelry Inc., a

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01114 Chady v. Zendedel

**#22.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01114. Complaint by Cyrus Chady, Bahram Zendedel against Bahram Zendedel. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Uyeda, James)

fr: 8-13-19; 1-14-20

Docket 1

**Tentative Ruling:**

5/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On February 26, 2019, the Court granted Plaintiff relief from the automatic stay, to enable Plaintiff to prosecute against Defendant two actions pending in the Los Angeles Superior Court (the "State Court Actions"). Plaintiff seeks to establish the indebtedness which is alleged to be non-dischargeable in this proceeding by way of the State Court Actions. On June 18, 2019, the Court granted Plaintiff's motion to abstain from adjudicating this dischargeability action until Plaintiff had obtained final, non-appealable judgments in the State Court Actions.

The judgment in one of the State Court Actions is now final. Judgment in the other State Court Action is not expected to become final for at least one year.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall take place on **December 15, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which shall discuss the status of the remaining State

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CONT...

**Bahram Zendedel**

**Chapter 7**

Court Action, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Cyrus Chady

Represented By  
James S Uyeda

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



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**Hearing Room 1568**

10:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01411 Fernando v. Salamat et al

**#23.00** Status Hearing RE: [1] Adversary case 2:19-ap-01411. Complaint by Angela Sandra Legaspi Fernando against Marlon Camar Salamat, Daisy Anne Boiser Salamat. 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)),(91 (Declaratory judgment)) (Smyth, Stephen)

Docket 1

**Tentative Ruling:**

5/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On February 7, 2020, the Court stayed this action pending resolution of the underlying state court action through which Plaintiff seeks to establish the indebtedness alleged to be non-dischargeable (the "State Court Action"). *See* Doc. No. 18. Plaintiff does not anticipate that a judgment in the State Court Action will be entered prior to July 2020. Both Plaintiff and Defendant have requested that the matter be referred to mediation.

Having reviewed the Joint Status Report submitted by the parties, the Court **HEREBY FINDS AND ORDERS AS FOLLOWS:**

- 1) An order assigning this matter to mediation was entered on December 11, 2019. *See* Doc. No. 14. The stay of this action is lifted for the sole purpose of allowing the parties to attend mediation. The parties shall have completed one day of mediation by no later than **July 24, 2020**.
- 2) The litigation dates and deadlines set forth in the *Scheduling Order* issued on December 16, 2019 [Doc. No. 16] are **VACATED**. Litigation deadlines will be reset after the State Court Action has been resolved.
- 3) A continued Status Conference is set for **August 11, 2020, at 10:00 a.m.** A

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**CONT...**

**Marlon Camar Salamat**

**Chapter 7**

Joint Status Report shall be filed by no later than fourteen days prior to the hearing. The Status Report shall discuss (a) the results of the mediation and (b) the status of the State Court Action.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto  
David Brian Lally

**Defendant(s):**

Marlon Camar Salamat

Represented By  
David Brian Lally

Daisy Anne Boiser Salamat

Represented By  
David Brian Lally

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto  
David Brian Lally

**Plaintiff(s):**

Angela Sandra Legaspi Fernando

Represented By  
Stephen S Smyth

**United States Bankruptcy Court  
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10:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24904 Nicholas Rene Ortiz**

**Chapter 7**

Adv#: 2:20-01024 Winfund Investment LLC v. Ortiz

**#24.00** Status Hearing RE: [1] Adversary case 2:20-ap-01024. Complaint by Winfund Investment LLC against Nicholas rene Ortiz. willful and malicious injury)),(65 (Dischargeability - other)) (Chang, Peiwen)

Docket 1

**Tentative Ruling:**

5/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On April 28, 2020, the Court granted Plaintiff's motion for relief from the automatic stay, to enable Plaintiff to prosecute to final judgment the state court action through which Plaintiff seeks to establish the indebtedness alleged to be non-dischargeable (the "State Court Action").

Having reviewed the Unilateral Status Report submitted by the Plaintiff, the Court **HEREBY FINDS AND ORDERS AS FOLLOWS:**

- 1) As the Ninth Circuit has explained, a non-dischargeability action requires consideration of two distinct issues: first, a determination of whether the Defendant is indebted to the Plaintiff; and second, a determination of whether the indebtedness is non-dischargeable. *Banks v. Gill Distribution Centers, Inc.*, 263 F.3d 862, 868 (9th Cir. 2001).
- 2) The most efficient way to resolve this action is for Plaintiff to first prosecute the State Court Action to final judgment. In the event Plaintiff obtains a judgment in its favor, Plaintiff may then return to the Bankruptcy Court to obtain a determination regarding whether such judgment is dischargeable.
- 3) This action is **STAYED** until Plaintiff obtains a final, non-appealable judgment in the State Court Action. The litigation deadlines set by way of the *Scheduling Order* issued on February 7, 2020 [Doc. No. 3] are **VACATED**.

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10:00 AM

**CONT...**

**Nicholas Rene Ortiz**

**Chapter 7**

Updated litigation deadlines will be set upon resolution of the State Court Action.

- 4) A continued Status Conference shall take place on **December 15, 2020, at 10:00 a.m.** A Joint Status Report, which shall discuss the status of the State Court Action, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Nicholas Rene Ortiz

Represented By  
Daniel G McMeekin

**Defendant(s):**

Nicholas Rene Ortiz

Pro Se

**Plaintiff(s):**

Winfund Investment LLC

Represented By  
Peiwen Chang

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

**#25.00** Status Hearing  
RE: [1] Postconfirmation Status Conference

fr. 10-17-18; 1-15-19; 6-11-19; 12-10-19

Docket 1

**Tentative Ruling:**

5/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On June 18, 2018, the Court entered an order confirming the *First Amended Chapter 11 Plan of Liquidation Dated January 31, 2018* (the "Plan"). The Plan appointed Bradley D. Sharp as the Plan Administrator responsible for liquidating the assets of the estate. (The Plan provided that all assets of the estate remained vested in the estate. *See* Plan at Art. 3.)

The Plan Administrator has made six distributions to holders of allowed claims. Funds distributed to date exceed \$11.7 million.

Having reviewed the *Fifth Post-Confirmation Status Report*, the Court finds that the Plan Administrator is making sufficient progress toward effectuating the Plan. A continued Status Conference shall take place on **December 15, 2020, at 10:00 a.m.** The Plan Administrator shall submit a Status Report by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

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**CONT... Liberty Asset Management Corporation**

**Chapter 11**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Liberty Asset Management

Represented By

David B Golubchik

Jeffrey S Kwong

John-Patrick M Fritz

Eve H Karasik

Sandford L. Frey

Raphael Cung

**United States Bankruptcy Court  
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**Tuesday, May 12, 2020**

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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01002 ST. VINCENT MEDICAL CENTER, a California nonprofit v. LOCAL

**#26.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01002. Complaint by ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against LOCAL INITIATIVE HEALTH AUTHORITY FOR LOS ANGELES COUNTY DBA L.A. CARE HEALTH PLAN, an independent local public agency. (Charge To Estate). /COMPLAINT FOR BREACH OF WRITTEN CONTRACTS, TURNOVER, UNJUST ENRICHMENT, DAMAGES FOR VIOLATION OF THE AUTOMATIC STAY, AND INJUNCTIVE RELIEF (Attachments: # 1 Exhibit Exhibit A # 2 Exhibit Exhibit B # 3 Exhibit Exhibit C # 4 Exhibit Exhibit D # 5 Exhibit Exhibit E # 6 Adversary Proceeding Cover Sheet # 7 Notice of Required Compliance Bk Rule 7026) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(71 (Injunctive relief - reinstatement of stay)) (Kahn, Steven)

fr: 3-12-19;fr. 4-2-19; 4-3-19; 6-19-19; 11-12-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 5-1-2020**

**Tentative Ruling:**

11/7/2019

On April 15, 2019, the Court stayed this action pending the completion of arbitration of the claims for relief asserted in the Complaint. Doc. Nos. 38 and 43. The Court found that it lacked discretion to decline to enforce an arbitration provision with respect to the non-core claims for breach of contract, unjust enrichment, and turnover. With respect to the remaining core claims for violation of the automatic stay and injunctive relief, the Court found that arbitration would not conflict with the purposes of the Bankruptcy Code, given that the amount at issue in connection with the core claims (approximately \$360,000) was inconsequential when compared to the amount at issue in connection with the non-core claims (approximately \$25 million). Consequently, the Court found that it was required to enforce the arbitration provision even with respect to the core claims.



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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Plaintiffs have filed an arbitration demand with JAMS. An arbitrator has been selected, and arbitration is set to convene on April 20, 2020.

A continued Status Conference shall be held on **May 12, 2020, at 10:00 a.m.** A Joint Status Report, which should discuss the status of the arbitration, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho

**Defendant(s):**

LOCAL INITIATIVE HEALTH

Pro Se

**Plaintiff(s):**

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
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11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01404 Elissa D. Miller, solely in her capacity as chapte v. BMC Stock Holdings,

**#100.00** Pre-Trial Conference  
RE: [1] Adversary case 2:18-ap-01404. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against BMC Stock Holdings, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3 Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-28-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

BMC Stock Holdings, Inc., a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
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Los Angeles  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01405 Elissa D. Miller, solely in her capacity as chapte v. American Express

**#101.00** Pre-Trial Conference

RE: [1] Adversary case 2:18-ap-01405. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against American Express Company, a New York Corporation, American Express Travel Related Services Company, Inc., a New York Corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-15-19; 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 3-31-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev

**United States Bankruptcy Court  
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**CONT... QUIGG LA11, LLC**

**Chapter 7**

Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
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**Tuesday, May 12, 2020**

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11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01409 Elissa D. Miller, solely in her capacity as chapte v. Hankey Capital, LLC, a

**#102.00** Pre-Trial Conference

RE: [1] Adversary case 2:18-ap-01409. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Hankey Capital, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

fr: 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE WILL BE  
HEARD AT 10:00 A.M. TODAY**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Hankey Capital, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... QUIGG LA11, LLC**

Jessica Vogel

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01410 Elissa D. Miller, solely in her capacity as chapte v. Anchor Loans, LP, a

**#103.00** Pre-Trial Conference

RE: [1] Adversary case 2:18-ap-01410. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Anchor Loans, LP, a Delaware limited partnership, Anchor Fund, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

fr: 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 5-4-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Anchor Loans, LP, a Delaware

Pro Se

Anchor Fund, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, May 12, 2020**

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11:00 AM

**CONT... QUIGG LA11, LLC**

Jessica Vogel

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01225 Leslie v. Slauson Oil

**#104.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01225. Complaint by Sam S. Leslie against Slauson Oil. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Simons, Larry)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 5-1-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

Slauson Oil

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
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Los Angeles  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01226 Leslie v. CAPITAL ONE, N.A.

**#105.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01226. Complaint by Sam S Leslie against CAPITAL ONE, N.A.. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Simons, Larry)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-30-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

CAPITAL ONE, N.A.

Pro Se

**Plaintiff(s):**

Sam S Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01227 Leslie v. Bank Of America N.A.

**#106.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01227. Complaint by Sam S Leslie against Bank Of America N.A.. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Simons, Larry)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-30-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

Bank Of America N.A.

Pro Se

**Plaintiff(s):**

Sam S Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-11868 Maria Guadalupe Ortiz Santos**

**Chapter 7**

Adv#: 2:18-01403 Yoo v. Gutierrez

**#107.00** Pre-Trial Conference  
RE: [1] Adversary case 2:18-ap-01403. Complaint by Timothy J. Yoo against Eduardo Infanzon Gutierrez. (Charge To Estate). Complaint to Avoid and Recover Fraudulent Transfer [11 U.S.C. §§ 542, 544, 550 and California Civil Code § 3439, et seq.] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Burstein, Richard)

FR. 9-24-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 2-19-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Maria Guadalupe Ortiz Santos

Represented By  
Peter M Lively

**Defendant(s):**

Eduardo Infanzon Gutierrez

Pro Se

**Plaintiff(s):**

Timothy J. Yoo

Represented By  
Richard Burstein

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Richard Burstein

**United States Bankruptcy Court  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

Adv#: 2:18-01260 Amin v. Emein

**#108.00** Pre-Trial Conference  
RE: [21] Amended Complaint 2nd Amended by Michael N Berke on behalf of Joseph Amin against Kami Emein

fr: 7-16-19, 9-10-19; 1-14-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Defendant(s):**

Kami Emein

Represented By  
TJ Fox

**Plaintiff(s):**

Joseph Amin

Represented By  
Michael N Berke

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01256 Ehrenberg, Chapter 7 Trustee v. Hsu

**#109.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01256. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lillian Yu-Li Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-10-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lillian Yu-Li Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
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11:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01257 Ehrenberg, Chapter 7 Trustee v. Hsu

**#110.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01257. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lung Hsiang Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-2-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lung Hsiang Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-24769 Paul A. Carrasco**

**Chapter 7**

Adv#: 2:19-01085      **MERCHANTS ACQUISITION GROUP LLC v. Carrasco**

**#111.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01085. Complaint by MERCHANTS  
ACQUISITION GROUP LLC against Paul Carrasco. false pretenses, false  
representation, actual fraud)) (Snyder, Richard)

fr: 1-14-20

Docket      1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT ENTERED 1-9-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Paul A. Carrasco

Represented By  
Raymond H. Aver

**Defendant(s):**

Paul Carrasco

Pro Se

**Plaintiff(s):**

MERCHANTS ACQUISITION

Represented By  
Richard W Snyder

**Trustee(s):**

David M Goodrich (TR)

Pro Se



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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#112.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01137. Complaint by G-Sight Solutions, LLC against Ryan James McMillin, G-Sight Solutions, Inc., a California Corporation. 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)),(14 (Recovery of money/property - other)) (Zshornack, Errol)

FR. 3-10-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-2020 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Pro Se

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Pro Se

G-Sight Solutions, LLC, a California

Pro Se

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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11:00 AM

**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#113.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

FR. 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

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**CONT... John F Gallardo**

**Chapter 7**

**United States Bankruptcy Court  
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**Tuesday, May 12, 2020**

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11:00 AM

**2:19-13844 Mauro Enrique Castellon**

**Chapter 7**

Adv#: 2:19-01204 Security First Bank v. Castellon

**#114.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01204. Complaint by THE DUNNING LAW FIRM APC SECURITY FIRST BANK against Mauro Enrique Castellon. false pretenses, false representation, actual fraud)) (MacLeod, James)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 12-5-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Mauro Enrique Castellon

Represented By  
James Geoffrey Beirne

**Defendant(s):**

Mauro Enrique Castellon

Pro Se

**Plaintiff(s):**

Security First Bank

Represented By  
James MacLeod

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-14029 Oran Kemp, Jr.**

**Chapter 7**

Adv#: 2:19-01223 Clady v. Kemp, Jr.

**#115.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01223. Complaint by Ryan Clady against Oran Kemp Jr.. false pretenses, false representation, actual fraud),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Ghanooni, Eliza)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-12-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Oran Kemp Jr.

Represented By  
Sean S Vahdat

**Defendant(s):**

Oran Kemp Jr.

Pro Se

**Plaintiff(s):**

Ryan Clady

Represented By  
Eliza Ghanooni

**Trustee(s):**

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-14464 Kevin Garnier**

**Chapter 7**

Adv#: 2:19-01233 Blue v. Garnier

**#116.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01233. Complaint by Rolando Blue against Kevin Garnier. 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)) (Kaplan, Jerome)

Docket 1

**Tentative Ruling:**

5/12/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Court has reviewed (a) the *Objection to Discharge and Complaint to Determine Dischargeability of a Debt* [Doc. No. 1] (the "Complaint") and (b) the Joint Pretrial Stipulation (the "Pretrial Stipulation") submitted by Plaintiff and Defendant on May 11, 2020. For the reasons set forth below, the Court finds that the Complaint fails to state a claim upon which relief can be granted under § 523(a)(4) (on the ground of larceny). *See Omar v. Sea-Land Service, Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) ("A trial court may dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6)"). Trial will be limited to Plaintiff's claims under § 523(a)(2)(A) and (a)(6).

On November 2, 2018, Plaintiff obtained a judgment against Defendant in the small claims court in the amount of \$10,155.00 (the "Small Claims Judgment"). The Small Claims Judgment arose from Plaintiff's allegations that Defendant "did not complete construction job at my residence that they were contracted to do" and that Defendant "abandoned assignment."

The Complaint alleges that the Small Claims Judgment is non-dischargeable pursuant to § 523(a)(2)(A), (a)(4) (on the ground of larceny), and (a)(6). The material allegations of the Complaint are as follows:

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**CONT...**

**Kevin Garnier**

**Chapter 7**

- 1) On December 19, 2008, Defendant became the sole owner of Contractor's License Number B342480 dba Du All Home Service. On February 15, 2018, Defendant changed the name associated with Contractor's License Number B342480 to "HQ Construction Company," but continued to conduct business under the name "Du All Home Service."
- 2) On March 11, 2018, Plaintiff entered into a written contract (the "Contract") with Defendant, dba Du All Home Service, under which Defendant agreed to remodel Plaintiff's Property. The total cost of the remodel was \$32,550, with payment to be made in four installments. On March 13, 2018, Plaintiff made two installment payments, in the total amount of \$16,274.00.
- 3) Defendant commenced work on the Property on March 14, 2018. Defendant installed smoke detectors incorrectly, installed regular recess lights instead of the LED lights requested by Plaintiff, damaged tiles at the Property's front entrance, and leaked oil on the Property's driveway. On April 1, 2018, Defendant abandoned work on the Property, leaving the premises in a hazardous state. Defendant told Plaintiff that he was abandoning the project because he was out of money.

Plaintiff asserts that the Small Claims Judgment is excepted from discharge under § 523(a)(2)(A) because Defendant (1) never intended to complete the project at the time he entered into the Contract and (2) misrepresented his intention to perform under the Contract in order to induce Plaintiff to remit the first two installment payments. Plaintiff asserts that the Small Claims Judgment is excepted from discharge under § 523(a)(4), on the ground of larceny, because Defendant retained the two installment payments without providing services of a commensurate value. Finally, Plaintiff asserts that Defendant's retention of the funds without providing services of commensurate value constitutes willful and malicious injury to Plaintiff's property, making the Small Claims Judgment non-dischargeable under § 523(a)(6).

**The Complaint Fails to State a Claim Under § 523(a)(4)**

To state a claim upon which relief can be granted, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.' A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citations omitted).

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**CONT... Kevin Garnier**

**Chapter 7**

To state a plausible claim for relief, a complaint must satisfy two working principles:

First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitations of the elements of a cause of action, supported by mere conclusory statements, do not suffice.... Second, only a complaint that states a plausible claim for relief survives a motion to dismiss. Determining whether a complaint states a plausible claim for relief will ... be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not "show[n]"—"that the pleader is entitled to relief."

*Id.* (citing Civil Rule 8(a)(2)).

Section 523(a)(4) excepts from discharge debts arising from a debtor's larceny. Larceny is the "felonious taking of another's personal property with intent to convert it or deprive the owner of the same." *Ormsby v. First Am. Title Co. of Nev. (In re Ormsby)*, 591 F.3d 1199, 1205 (9th Cir. 2010). "As distinguished from embezzlement, the original taking of the property must be unlawful." *Collier on Bankruptcy* ¶ 523.10[2] (16th ed. rev'd 2018).

None of the allegations in the complaint show that Defendant's initial receipt of the installment payments was unlawful. Instead, the Complaint alleges that Defendant's wrongful actions consisted of failing to perform under the Contract after receiving the installment payments. The Complaint fails to state a claim for larceny.

In the Pretrial Stipulation, Plaintiff contends that in addition to being liable under § 523(a)(4) on the ground of larceny, Defendant is also liable under § 523(a)(4) on the grounds of embezzlement and fraud or defalcation while acting in a fiduciary capacity. The Complaint does not assert claims under § 523(a)(4) for embezzlement or fraud or defalcation while acting in a fiduciary capacity. The Court declines to permit Plaintiff to introduce at the pretrial stage new claims that were not pleaded in the Complaint.

**Plaintiff is Not Judicially Estopped from Bringing the Complaint**

Defendant asserts that Plaintiff is judicially estopped from asserting that Defendant made fraudulent representations in connection with the Contract. Defendant maintains that estoppel is appropriate because the Small Claims Complaint



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**CONT... Kevin Garnier**

**Chapter 7**

did not allege that Defendant committed fraud. Defendant further asserts that that he can be found liable under § 523(a)(2)(A) only if Plaintiff establishes that the Small Claims Court found that Defendant's conduct was fraudulent.

Defendant's argument misapprehends the nature of a non-dischargeability action. As the Ninth Circuit has explained, a non-dischargeability action requires consideration of two distinct issues: first, a determination of whether the Defendant is indebted to the Plaintiff; and second, a determination of whether the indebtedness is non-dischargeable. *Banks v. Gill Distribution Centers, Inc.*, 263 F.3d 862, 868 (9th Cir. 2001). Here, the Small Claims Judgment involved only the first issue—whether Defendant is indebted to Plaintiff. The purpose of this trial is to determine the second issue—whether the indebtedness established by the Small Claims Judgment will be excepted from Defendant's discharge. The fact that Plaintiff did not raise matters that pertain only to dischargeability—such as whether Defendant committed fraud—in the Small Claims Complaint does not preclude Plaintiff from raising those matters now.

**Trial is Set for August 24, 2020**

As a result of the Covid-19 pandemic, trial cannot go forward during the week of May 25, 2020, as originally schedule. Trial is set for **August 24, 2020**. The trial day commences at 9:00 a.m.

On October 24, 2019, the Court entered an order setting litigation deadlines and establishing procedures for the adjudication of evidentiary objections at trial (the "Evidence Procedures Order") [Doc. No. 14]. The Evidence Procedures Order required all parties to stipulate to the admissibility of exhibits whenever possible. It further provided:

In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference .... The failure of a party to file a Motion in Limine ... shall be deemed a waiver of any objections to the admissibility of an exhibit.

Evidence Procedures Order at ¶ 1(h)(ii).

No Motions in Limine have been filed in accordance with the requirements of the Evidence Procedures Order. Accordingly, all exhibits offered by the parties shall be deemed admitted.

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**CONT... Kevin Garnier**

**Chapter 7**

By no later than **August 10, 2020**, the parties shall deliver the trial materials specified in the *Order Re: Courtroom Procedures* [Doc. No. 4] directly to Judge Robles' chambers.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Rolando Blue

Represented By  
David S Kadin  
Jerome Kaplan

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
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Tuesday, May 12, 2020

Hearing Room 1568

11:00 AM

**2:19-14464 Kevin Garnier**

**Chapter 7**

Adv#: 2:19-01234 Li v. Garnier

**#117.00** Pre-Trial RE: [1] Adversary case 2:19-ap-01234. Complaint by Qi Li against Kevin Garnier. false pretenses, false representation, actual fraud)) (Wolk, Sarah)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

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

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Qi Li

Represented By  
Sarah R Wolk  
Zachary Levine

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-15098 Phachira Ketkaew**

**Chapter 7**

Adv#: 2:19-01252 Jittanoon et al v. Ketkaew

**#118.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01252. Complaint by Peera Jittanoon, Preda Jittanoon against Phachira Ketkaew. 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)) (Landsberg, Ian)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Phachira Ketkaew

Represented By  
Jarintorn Tanatchasai

**Defendant(s):**

Phachira Ketkaew

Pro Se

**Plaintiff(s):**

Peera Jittanoon

Represented By  
Ian Landsberg

Preda Jittanoon

Represented By  
Ian Landsberg

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-16669 Parkridge Private School, Inc.**

**Chapter 7**

Adv#: 2:19-01213 Santos et al v. Parkridge Private School, Inc.

**#119.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01213. Complaint by Efrain Santos, Evelyn Lambert against Parkridge Private School, Inc.. Eric)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-4-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Parkridge Private School, Inc.

Represented By  
Robert M Aronson

**Defendant(s):**

Parkridge Private School, Inc.

Pro Se

**Plaintiff(s):**

Efrain Santos

Represented By  
Eric C Morris

Evelyn Lambert

Represented By  
Eric C Morris

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#120.00** Pre-Trial Conference  
RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 5-14-19; 2-11-20; 4-14-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By  
Samuel R Maizel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-25205 Roger Iraj Shadgou**

**Chapter 11**

**#121.00** Hearing  
RE: [27] U.S. Trustee Motion to dismiss or convert with BANS notice . (united states trustee (hy))

Docket 27

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 5-8-20**

**Tentative Ruling:**

- NONE LISTED -

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

Roger Iraj Shadgou

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#1.00** Hearing re [4317] and [4345] re Objection with respect to the transfer of the SFMC **Medi-Cal** Provider Agreement.

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-10-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing RE [4285] Objection regarding transfer of the SFMC **Medicare** Provider Agreement.

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-10-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#3.00** Hearing re [4567] Issues Regarding Transfer of Seton **Medi-Cal** Provider Agreement.

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-10-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00** Hearing re [4568] Hearing Re Issues Regarding Transfer of Seton **Medicare** Provider Agreement

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-10-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, May 13, 2020

Hearing Room 1568

10:00 AM

2:20-10264 450 S. Western, LLC, a California limited liability

Chapter 11

#5.00 Hearing  
RE: [117] Motion To Approve Stipulation With Second And Third Lienholders For Allowance Of Claims And Modification Of Financing Terms; Memorandum Of Points And Authorities; Declaration Of Richard J. Laski Support Thereof, With Proof Of Service

Docket 117

**Tentative Ruling:**

5/12/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Motion to Approve Stipulation with Second and Third Lienholders for Allowance of Claims and Modification of Financing Terms [Doc. No. 117] (the "Motion")
  - a) Notice of [Motion] [Doc. No. 118]
- 2) Notice of Filing of Agreed Form of Order Approving Stipulation with Second and Third Lienholders for Allowance of Claims and Modification of Financing Terms [Doc. No. 123]
- 3) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On January 10, 2020 (the "Petition Date"), 450 S. Western, LLC (the "Debtor") filed a voluntary Chapter 11 petition. The Debtor owns and operates a three-story, 80,316 square foot shopping center—commonly known as California Marketplace—located at the intersection of South Western Avenue and 5th Street. The shopping center serves the Los Angeles Korean community and contains 28 stores. As of the Petition Date, the shopping center had a 98% occupancy rate.

On April 16, 2020, Pontis Capital, LLC ("Pontis") filed Proof of Claim No. 7-2

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Wednesday, May 13, 2020

Hearing Room 1568

10:00 AM

CONT... **450 S. Western, LLC, a California limited liability** **Chapter 11**

("the Pontis Claim"), asserting a secured claim in the amount of \$4,684,959.75. On that same date, Five West Capital, LP ("Five West") filed Proof of Claim No. 8-2 ("the Five West Claim"), asserting a secured claim in the amount of \$5,855,998.95. **[Note 1]** Both claims arise from pre-petition promissory notes executed by the Debtor to repay construction loans. Pontis and Five West contend that they are entitled to interest on their claims at the default rate of 18%.

Debtor moves for approval of a compromise with Pontis and Five West. Under the compromise, the Pontis and Five West Claims will be deemed allowed in exchange for a reduction in the interest rates from 18% (the default rate) to 10% (the pre-default rate). Debtor asserts that absent the compromise, it would be required to incur substantial costs objecting to the claims and/or refinancing the indebtedness giving rise to the claims.

The Debtor has submitted a proposed order approving the compromise. The proposed order has been reviewed and approved as to form by the Debtor, the Official Committee of Unsecured Creditors, Pontis, and Five West.

## **II. Findings and Conclusions**

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the compromise is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

### *Complexity of the Litigation*

This factor weighs in favor of approving the compromise. The compromise achieves the results of a claim objection and a refinancing. If the compromise were not approved, the Debtor would be required to obtain traditional debtor-in-possession financing to fund operations while marketing its assets. The Debtor would also be required to litigate the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Wednesday, May 13, 2020

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10:00 AM

CONT... **450 S. Western, LLC, a California limited liability** **Chapter 11**

issue of whether Pontis and Five West are entitled to default interest on their claims. Obtaining financing and challenging the allowability of default interest would result in the accrual of additional administrative expenses.

*Probability of Success on the Merits*

This factor weighs in favor of approving the compromise. To obtain approval of a compromise, the Debtor is not required to conclusively establish that Pontis and Five West would prevail if the Debtor challenged the allowability of their claims or their entitlement to default interest. "That would defeat the purpose of settlement and would eliminate any cost savings from the settlement. 'All that [the Debtor] must do is establish to the reasonable satisfaction of [this Court] that, all things considered, it is prudent to eliminate the risks of litigation to achieve specific certainty though it might be considerably less (or more) than were the case fought to the bitter end.'" *In re Aloha Racing Found., Inc.*, 257 B.R. 83, 88 (Bankr. N.D. Ala. 2000) (internal citation omitted).

Here, the Debtor has demonstrated that it is prudent to eliminate the litigation risks associated with objecting to the claims asserted by Pontis and Five West.

*Paramount Interests of Creditors*

This factor weighs in favor of approving the compromise. The compromise is supported by the Official Committee of Unsecured Creditors and two of the three largest secured creditors. No creditors have objected to approval of the compromise.

*Difficulties To Be Encountered in the Manner of Collection*

This factor does not apply.

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** in its entirety. The Court will enter the proposed order that has been approved as to form by the Debtor, the Committee, Pontis, and Five West.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance,

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, May 13, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **450 S. Western, LLC, a California limited liability**      **Chapter 11**  
contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Pontis initially asserted a secured claim in the amount of \$4,846,959.75, but filed an amended claim in the reduced amount of \$4,684,959.75 after the Debtor pointed out discrepancies between the claim and a demand notice issued by Pontis. Five West also reduced its claim from \$6,058,498.95 to \$5,855,998.95 for the same reason.

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

450 S. Western, LLC, a California

Represented By

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, May 13, 2020

Hearing Room 1568

11:00 AM

2:18-25031 Lauren Reno

Chapter 7

#100.00 APPLICANT: Trustee: Peter J. Mastan

Hearing re [68] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

5/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$1,750 [*see* Doc. No. 66]

Total Expenses: \$32.10 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Lauren Reno

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 13, 2020**

**Hearing Room 1568**

---

11:00 AM

**CONT... Lauren Reno**

**Chapter 7**

Jeffrey J Hagen

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11367 C & F Foods, Inc**

**Chapter 7**

**#1.00** Hearing  
RE: [23] Motion Amended for Order Granting Relief to Allow Setoff and Recognizing  
Right of Recoupment

Docket 23

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 5-1-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

C & F Foods, Inc

Represented By  
Dean G Rallis Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12488 Kasandra Lee Johnson**

**Chapter 7**

**#2.00** HearingRE: [16] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Toyota Prius, VIN: JTDZN3EU4FJ036847 . (Ith, Sheryl)

Docket 16

**Tentative Ruling:**

5/14/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
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**Hearing Room 1568**

10:00 AM

**CONT... Kasandra Lee Johnson**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Kasandra Lee Johnson

Pro Se

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13627 Carlyle Assets**

**Chapter 7**

**#3.00** HearingRE: [15] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1222 West 39th Street, Los Angeles, CA 90037 . (Still, Andrew)

Docket 15

**Tentative Ruling:**

5/14/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

On April 13, 2020, Carlyle Assets (the "Debtor") filed a voluntary chapter 7 petition. On or about July 20, 2018, the Debtor and PS Funding, Inc. (the "Movant") entered into a commercial loan agreement, pursuant to which Debtor agreed to pay Movant the principal amount of \$3,100,000, plus interest (the "Promissory Note"). *See* Declaration of Susan M. Branch [Doc. No. 15-2] ("Branch Decl."), ¶ 4a, Ex. 1. The Promissory Note was secured by a first-position deed of trust in favor of Movant, encumbering commercial real property located at 1222 West 39th Street, Los Angeles, California, 90037 (the "Property"). Jason Moreno, the Debtor's vice president, executed a guaranty, wherein he promised to pay Movant any of Debtor's financial obligations under the Promissory Note. Branch Decl., ¶ 4c, Ex. 3. Pursuant to the same series of transactions, the Movant entered into individual agreements with various creditors asserting an interest in the Property to subordinate each security interest to Movant's lien. *See* Branch Decl., Exs. 4-7. The Movant asserts that the Debtor defaulted on the

**United States Bankruptcy Court  
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Judge Ernest Robles, Presiding  
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**Monday, May 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Carlyle Assets**

**Chapter 7**

Promissory Note on or about August 1, 2019, for which deficiencies have not been cured as of the filing of the Motion. *See* Motion at 8.

The Court finds that there is good cause to grant relief under 11 U.S.C. §§ 362(d)(1) and (d)(2). The Property has a value of \$3,500,000 (RJN, Ex. 3) and is encumbered by a perfected deed of trust in favor of the Movant in the sum of \$3,659,196.65 (Branch Decl., Ex. 2). Accordingly, the value of the equity cushion in the Property exceeding Movant's debt is -\$159,196.65, which is -4.5% of the Property's fair market value. Therefore, the Movant's interest in the Property is not adequately protected, and stay-relief under § 362(d)(1) is appropriate. *Pistole v. Mellor (In re Mellor)*, 734 F.2d 1396, 1401 (9th Cir. 1984); *see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.)*, 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). Further, the Property is encumbered by at least six additional liens that were not disclosed in Debtor's schedules. *See* Branch Decl., Exs. 4-7, 9. The liens against the Property, unpaid taxes, and the expected costs of sale total \$4,879,618.73. Based on the foregoing, the Court further finds there is no equity, the Property is not necessary for the Debtor's reorganization, and there is no evidence that the trustee can administer the Property for the benefit of creditors. Hence, stay-relief is also warranted pursuant to § 362(d)(2).

In addition, the Court notes that the Debtor listed Movant as its only creditor, notwithstanding the security interests of at least four other creditors [**Note 1**] and the tax assessments owed to the Los Angeles County that encumber the Property. *See* Branch Decl., Ex. 9 (Schedule A of the Trustee's Sale Guarantee, dated October 31, 2019). On Schedule D, the Debtor also stated that, apart from Movant, no other creditor asserted an interest against the Property. Based on the present, uncontroverted record, the Court finds that this petition was filed in bad faith to delay and impair Movant's attempts to foreclose upon the Property. Therefore, the Motion is also granted under § 362(d)(1) for cause based on Debtor's bad faith filing.

The Motion is GRANTED pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property, or to enter into a potential forbearance or loan modification agreement in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The 14-day period specified in Fed. R. Bankr. P.

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**CONT... Carlyle Assets Chapter 7**

4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Note 1:** The Debtor extended three short deeds of trust to Rondo Resources, Inc. to secure three separate loan obligations. *See* Branch Decl., Ex. 9.

**Party Information**

**Debtor(s):**

Carlyle Assets

Represented By

Michael O Akhidenor

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



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**2:17-15115 John Martin Kennedy**

**Chapter 7**

Adv#: 2:17-01377 Campos v. Kennedy, MD

**#1.00 Status Hearing**

RE: [1] Adversary case 2:17-ap-01377. Complaint by Yunuen Campos against John Martin Kennedy. willful and malicious injury)) (Dean, Lauren)

fr: 11-14-17; 2-13-18; 5-15-18; 8-14-18; 10-16-18; 1-23-19; 5-14-19; 9-10-19;  
1-14-20

Docket 1

**Tentative Ruling:**

5/18/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Plaintiff has obtained final judgment in the State Court (the “State Court Judgment”) against Defendant, awarding Plaintiff damages of \$225,000 for sexual battery (Cal. Civ. Code § 1798.5), gender violence (Cal. Civ. Code § 52.4), and violation of the Ralph Civil Rights Act (Cal. Civ. Code § 57.7). The portion of the State Court Judgment awarding Plaintiff attorneys’ fees in the amount of approximately \$2.5 million remains subject to an appeal and is not yet final. However, the State Court Judgment’s award of costs in the amount of \$84,090.34 is final.

On February 4, 2019, the Court found that the portion of the State Court Judgment awarding damages and costs was non-dischargeable pursuant to § 523(a)(6). Doc. Nos. 42 and 45–46. The Court stated that adjudication of the dischargeability of the fee portion of the State Court Judgment would occur once that aspect of the judgment became final. The fee portion of the State Court Judgment has not yet become final.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **August 11, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which shall discuss the status of Defendant’s appeal of

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**John Martin Kennedy**

**Chapter 7**

the fee portion of the State Court Judgment, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

John Martin Kennedy

Represented By  
Jeffrey S Shinbrot

**Defendant(s):**

John M. Kennedy MD

Represented By  
Jeffrey S Shinbrot

**Plaintiff(s):**

Yunuen Campos

Represented By  
Robert S Lampl  
Lauren A Dean

**Trustee(s):**

David M Goodrich (TR)

Pro Se

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**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01372 Mastan, Chapter 7 Trustee v. Romex Textiles, Inc.

**#2.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01372. Complaint by Peter J. Mastan, Chapter 7 Trustee against Romex Textiles, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/13/2020

Order entered. Status Conference continued to **March 17, 2020, at 10:00 a.m.** pursuant to stipulation.

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

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Romex Textiles, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

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**2:20-12839 Rosalina Lizardo Harris**

**Chapter 11**

**#3.00** HearingRE: [11] Motion to Dismiss Debtor or, Bankruptcy Case or, Alternatively, To Convert To Chapter 7, Pursuant To 11 U.S.C. § 1112

Docket 11

**Tentative Ruling:**

5/18/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion to Dismiss is **GRANTED**. The Motion for Relief from the Automatic Stay is **DENIED AS MOOT** in view of the dismissal.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 [Doc. No. 10]
- 2) Notice of Motion to Dismiss Bankruptcy Case or, Alternatively, to Convert to Chapter 7, Pursuant to U.S.C. § 1112 [Doc. No. 11] (the "Motion")
  - a) Declaration of Anthony R. Bisconti in Support of (I) Motion to Dismiss Bankruptcy Case or, Alternatively, to Convert to Chapter 7, Pursuant to 11 U.S.C. § 1112, and (II) Motion for Relief from the Automatic Stay [Doc. No. 12]
  - b) Declaration of Paul P. Young in Support of (I) Motion to Dismiss Bankruptcy Case or, Alternatively, to Convert to Chapter 7, Pursuant to 11 U.S.C. § 1112, and (II) Motion for Relief from the Automatic Stay [Doc. No. 13]
  - c) Request for Judicial Notice in Support of (I) Motion to Dismiss Bankruptcy Case or, Alternatively, to Convert to Chapter 7, Pursuant to 11 U.S.C. § 1112, and (II) Motion for Relief from the Automatic Stay [Doc. No. 14] (the "RJN")
- 3) Opposition to Motion to Dismiss Bankruptcy Case Or, Alternatively, to Convert to Chapter 7, Pursuant to 11 U.S.C. Section 1112 [Doc. No. 24]
  - a) Declaration of Debtor Rosalina Harris in Support of Opposition to Motion to Dismiss Bankruptcy Case Or, Alternatively, to Convert to Chapter 7, Pursuant to

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11 U.S.C. Section 1112 [Doc. No. 25]

- 4) Limited Opposition to Motion for Relief from the Automatic Stay Under 11 U.S.C. Section 362 [Doc. No. 26]
- 5) Consolidated Reply in Support of (I) Motion to Dismiss Bankruptcy Case or, Alternatively, to Convert to Chapter 7, Pursuant to 11 U.S.C. § 1112 and (II) Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 [Doc. No. 27]

**I. Facts and Summary of Pleadings**

Crystal Holmes (“Holmes”) moves for orders (1) dismissing the voluntary Chapter 11 petition filed by Rosalina Lizardo Harris (“Harris”) or, in the alternative, converting the case to Chapter 7 and (2) granting Holmes relief from the automatic stay, to enable Holmes to continue to enforce a judgment that Holmes holds against Harris (the “Judgment”) and to allow Harris’ appeal of the Judgment to proceed. Harris opposes both Motions.

**A. Holmes’ Judgment Against Harris**

On May 3, 2018, Holmes filed a complaint against Harris and other parties in the District Court, asserting claims under 42 U.S.C. § 1983 (the “Complaint”). On July 11, 2019, after conducting a jury trial, the District Court entered judgment in favor of Holmes in the amount of \$2,265,952.00 (the “Judgment”). RJN, Ex. 4. The jury found that Harris, who is a detective employed by the Los Angeles Sheriff’s Department (the “LASD”), violated Holmes’ Fourth Amendment right to be free from unreasonable arrest without probable cause, and awarded damages of \$765,952. *Id.* The jury further found that Harris acted with malice, oppression, or reckless disregard of Holmes’ constitutional rights, and awarded punitive damages of \$1.5 million. *Id.*

On September 19, 2019, the District Court denied Harris’ renewed motion for judgment as a matter of law. The District Court stated:

The Court concludes that there was ample evidence to support the jury’s verdict. There was sufficient evidence supporting the jury’s conclusion that [Harris] acted under color of law in procuring [Holmes’] arrest, and that [Harris] procured [Holmes’] wrongful arrest without probable cause.

RJN, Ex. 5.

On October 4, 2019, the District Court denied Harris’ motion for a new trial or, in the alternative, an altered or amended judgment. RJN, Ex. 6. The District Court rejected Harris’ contention that the award of actual damages was not supported by sufficient

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evidence. *Id.* The District Court also found that the award of \$1.5 million in punitive damages was justified:

Here, the jury found that [Harris] acted “with malice, oppression, or reckless disregard of [Holmes’] constitutional rights” in procuring her wrongful arrest, rather than negligently. The jury concluded that [Harris], a law enforcement officer, carried out the wrongful arrest of an innocent person under the authority of her position, in deliberate disregard of [Holmes’] right to be free of unlawful arrest. The Court concludes that this is reprehensible conduct.

*Id.* (internal citations omitted).

On October 4, 2019, the District Court awarded Holmes attorneys’ fees in the amount of \$760,397.50, and costs and expenses in the amount of \$2,709.29. *Id.*

On October 10, 2019, Harris appealed the Judgment to the Ninth Circuit. The Ninth Circuit took no action on the appeal prior to the filing of Harris’ voluntary Chapter 11 petition.

**B. Harris’ Voluntary Chapter 11 Petition**

On March 13, 2020 (the “Petition Date”), Harris filed a voluntary Chapter 11 petition (the “Petition”). Harris’ primary assets, and the scheduled valuations of those assets, are as follows:

- 1) **Primary residence, located at 400 W. Altadena Dr., Altadena, CA 91001 (the “Property”).** The Property is valued at \$887,000.00, and is encumbered by liens in the amount of \$516,851.84.
- 2) **401(k) County of Los Angeles Defined Contribution Plan (the “401k Plan”).** The 401k Plan is valued at \$363,338.44, and is encumbered by a lien in the amount of \$45,000.00.
- 3) **LACERA County Employment Retirement Benefit Plan (the “Pension Plan”).** The Pension Plan is valued at \$309,288.56. There are no encumbrances against the Pension Plan.

Harris also scheduled as assets (1) potential claims for legal malpractice against Seki, Nishimura & Watase (“Seki”), the law firm appointed by Los Angeles County (“LA County”) to represent Harris in the Holmes litigation and (2) potential claims for indemnity against LASD, LA County, and her homeowner’s insurer regarding the Holmes litigation. With respect to the indemnity claims, Harris states that after Holmes

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commenced the litigation, she was informed that LA County and LASD would be responsible for defending the matter. Harris asserts that she never signed a retention agreement with Seki, that she was never advised that her personal assets could be subject to a judgment, and that she was excluded from substantive participation in litigation strategy or settlement discussions. Harris states that she believed that LA County would bear financial responsibility for any judgment entered against her, and that she maintained this belief until she was informed in late 2019 that LA County might not pay the punitive damages portion of the Judgment.

Aside from the Judgment, Harris' liabilities consist of (1) unpaid tax debt of approximately \$6,000.00, (2) credit card debt of approximately \$5,000.00, (3) and several months of arrearages on the Property's mortgage.

According to the Petition, Harris made the following pre-petition transfers. In September 2019, Harris paid \$20,000 to purchase a vehicle for her daughter. Statement of Financial Affairs (the "SOFA") at ¶ 8. In October and November 2019, Harris transferred \$35,000.00 from her retirement account to her mother and sister. SOFA at ¶ 7. The funds were returned to Harris in February 2020, prior to the Petition Date. *Id.* In January 2020, Harris paid \$26,717.00 to retain bankruptcy counsel. SOFA at ¶ 16.

[Note 1]

**C. Summary of Holmes' Motion to Dismiss and Motion for Relief from the Automatic Stay**

Holmes moves to dismiss the petition under § 1112, or in the alternative, to convert the case to Chapter 7. Holmes also moves for relief from the automatic stay, pursuant to § 362(d)(1), to enable Harris' appeal of the Judgment to proceed and to allow Holmes to continue to enforce the Judgment. Holmes makes the following arguments and representations in support of the Motions:

Harris sought bankruptcy protection solely to avoid posting a supersedeas bond in connection with her appeal of the Judgment. Harris has limited assets, no ongoing business to reorganize, no meaningful unsecured creditors other than Holmes, and insufficient income to sustain a plan of reorganization. Harris commenced the petition solely to hinder, delay, and frustrate Holmes' ability to collect on the Judgment. The petition should be dismissed as having been filed in bad faith. *See In re Mense*, 509 B.R. 269, 279–81 (Bankr. C.D. Cal. 2014) (holding that a bankruptcy filed to avoid posting a supersedeas bond was not filed in good faith where the debtor lacked financial problems other than the adverse judgment and did not operate a viable business).

Harris' bad-faith is also shown by a series of pre-petition transfers Harris engaged in



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to deplete the value of the estate, including the following:

- 1) Refinancing her home and reducing the available equity by at least \$125,000;
- 2) Withdrawing \$45,000 from a retirement account;
- 3) Spending \$20,000 to purchase a new vehicle for her daughter;
- 4) Spending \$28,000 to purchase a brand-new truck for her husband; and
- 5) Transferring \$35,000 to her sister and mother.

On March 3, 2020, Holmes requested a copy of Harris' tax return, pursuant to § 521(e)(2). Harris failed to timely provide a copy of the tax return. Under § 521(e)(2), dismissal of the petition is mandatory because Harris has not demonstrated that the failure to provide the tax return was due to circumstances beyond her control.

If the Court does not dismiss the case, the Court should grant Holmes relief from the automatic stay so that the appeal of the Judgment may continue and so that Holmes may continue to enforce the Judgment. Stay relief is warranted under § 362(d)(1) because the petition was filed in bad faith. Holmes should be allowed to enforce the Judgment because it is non-dischargeable under § 523(a)(6). The District Court found there was sufficient evidence to support the jury's finding that Harris acted "with malice, oppression, or reckless disregard of [Holmes'] constitutional rights" by procuring the false arrest of Holmes.

**D. Summary of Harris' Opposition to the Motion to Dismiss and Motion for Stay Relief**

Harris makes the following arguments and representations in opposition to both Motions:

In support of her contention that the bankruptcy was filed in bad faith, Harris relies primarily on *In re Mense*, 509 B.R. 269 (Bankr. C.D. Cal. 2014), which is not binding authority. In addition, the facts of *Mense* differ from the facts here. In *Mense*, the debtor had nearly \$20 million in assets and was faced with a judgment of less than \$2.5 million. Unlike in *Mense*, Harris lacks the ability to post a supersedeas bond. Further, Harris sought bankruptcy protection to save the Property, which is a legitimate bankruptcy objective. Harris has the ability to confirm a plan of reorganization. Harris has over \$360,000 in exempt retirement assets to commit to a Plan. Combined with her scheduled income, Harris has the ability to fund a plan regardless of the results of the appeal of the Judgment.

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Harris also holds (1) potential claims for malpractice against Seki and (2) potential claims for indemnity against LASD, LA County, and her home insurer regarding the Holmes litigation. LASD paid for Harris' defense but did not warn Harris that her personal assets could be at stake and excluded Harris from meaningful participation in litigation strategy. Harris' claims for implied and equitable indemnity against LASD will likely be an important source of income to a fund a plan.

There is no merit to Holmes' argument that Harris' pre-petition transfers to family members support a finding of bad faith. Harris fully disclosed these transfers in her petition, and the funds at issue have been returned.

Harris does not oppose the lifting of the automatic stay to permit her appeal of the Judgment to proceed. However, Harris does object to Holmes' request for stay-relief to enforce the Judgment against the assets of the estate. In support of this relief, Holmes contends that the Judgment is non-dischargeable under § 523(a)(6). Holmes emphasizes the jury's finding that Harris acted with "malice, oppression, or reckless disregard" of Holmes' constitutional rights. Use of the disjunctive "or" means that the jury could have based the punitive damages award on "oppression" or "reckless disregard," rather than "malice," in which case the Judgment would be dischargeable.

**E. Summary of Holmes' Reply in Support of the Motion to Dismiss and Motion for Stay Relief**

Holmes makes the following arguments and representations in reply to Harris' opposition:

Harris has not demonstrated that she can confirm a viable plan of reorganization. Harris' contemplated plan involves retaining the Property while using her remaining assets to pay Holmes. Such a plan violates the absolute priority rule and cannot be confirmed over Holmes' opposition. Holmes would vote against such a plan.

Cause for dismissal exists because Harris has not filed any Monthly Operating Reports, and has failed to file any applications to employ professionals, even though this case was filed on March 12, 2020. [Note 2]

**II. Findings of Fact and Conclusions of Law**

**A. Evidentiary Issues**

Holmes relies upon Harris' testimony at the § 341(a) meeting of creditors in support of both Motions. However, Holmes has not submitted a transcript of the § 341(a) meeting. Instead, Holmes attempts to introduce Harris' § 341(a) testimony by relying upon the "extensive, detailed notes of the questions asked and of the Debtor's sworn

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testimony” that were taken by Anthony R. Bisconti, Holmes’ counsel. Declaration of Anthony R. Bisconti (the “Bisconti Decl.”) at ¶ 6.

Bisconti’s recollection of Harris’ § 341(a) testimony is inadmissible as hearsay. The proper method for Holmes to introduce Harris’ § 341(a) testimony would have been to provide a transcript of the meeting. The Court declines to consider Harris’ alleged § 341(a) testimony in adjudicating either of the Motions. [Note 3]

**B. The Motion to Dismiss is Granted**

"Under § 1112(b)(1), a court may dismiss a Chapter 11 bankruptcy case ‘for cause,’ based on a finding that the petition was filed in bad faith." *Prometheus Health Imaging, Inc. v. UST – United States Tr. (In re Prometheus Health Imaging, Inc.)*, 705 F. App’x 626, 627 (9th Cir. 2017) (citing *In re Marshall*, 721 F.3d 1032, 1047 (9th Cir. 2013)); see also *Marsch v. Marsch (In re Marsch)*, 36 F.3d 825, 828 (9th Cir. 1994) ("Although section 1112(b) does not explicitly require that cases be filed in ‘good faith,’ courts have overwhelmingly held that a lack of good faith in filing a Chapter 11 petition establishes cause for dismissal"). "While § 1112(b)(4) provides a list of what circumstances may constitute ‘cause’ for dismissal, the list is non-exhaustive, and ‘courts may consider any factors which evidence an intent to abuse the judicial process and the purposes of the reorganization provisions,’ to make the bad faith determinations." *In re Prometheus Health Imaging, Inc.*, 705 F. App’x at 627. The existence of good faith "does not depend on one factor alone, but . . . is to be judged by looking at the totality of the circumstances surrounding the case." *In re WLB-RSK Venture*, 296 B.R. 509, 514 (Bankr. C.D. Cal. 2003).

The Ninth Circuit has expanded on this concept as follows:

To determine whether a debtor has filed a petition in bad faith, courts weigh a variety of circumstantial factors such as whether:

- 1) the debtor has only one asset;
- 2) the debtor has an ongoing business to reorganize;
- 3) there are any unsecured creditors;
- 4) the debtor has any cash flow or sources of income to sustain a plan of reorganization or to make adequate protection payments; and
- 5) the case is essentially a two party dispute capable of prompt adjudication in state court.

*In re St. Paul Self Storage Ltd. P'ship*, 185 B.R. 580, 582–83 (B.A.P. 9th Cir. 1995).

Where a debtor seeks Chapter 11 protection to avoid posting a supersedeas bond,

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courts consider the following factors to determine if the petition was filed in good faith:

- 1) Whether the debtor is a viable business which would suffer severe disruption if enforcement of the judgment was not stayed; and the chapter 11 petition was filed to preserve its status as an ongoing concern and to protect its employees and creditors;
- 2) Whether the debtor had financial problems on the petition date, other than the adverse judgment;
- 3) Whether the debtor has relatively few unsecured creditors, other than the holder of the adverse judgment;
- 4) Whether the debtor has sufficient assets to post a bond to stay the judgment pending appeal;
- 5) Whether the debtor acted in good faith to exhaust all efforts to obtain a bond to stay the judgment pending appeal;
- 6) Whether the debtor intends to pursue an effective reorganization within a reasonable period of time, or whether the debtor is unwilling or unable to propose a meaningful plan until the conclusion of the litigation; and
- 7) Whether assets of the estate are being diminished by the combined ongoing expenses of the debtor, the chapter 11 proceedings, and prosecution of the appeal.

*In re Mense*, 509 B.R. 269, 280–81 (Bankr. C.D. Cal. 2014).

Applying the factors set forth in *St. Paul Self Storage* and *Mense*, the Court finds that Harris filed the petition in bad faith, in order to avoid the necessity of posting a supersedeas bond during the appeal of the Judgment. First, Harris has failed to demonstrate that she has the ability to confirm a plan. Any plan proposed by Harris would have to deal with the Judgment, which exceeds \$3 million. Harris describes the provisions of the plan that she envisions in only minimal detail. Under the contemplated plan, Harris would retain the Property and make monthly payments to creditors, funded by an unspecified portion of Harris' family income and other assets. Harris' potential claims against Seki, LASD, LA County, and her home insurer would also form part of the plan.

As the holder of the Judgment, Holmes is by far the estate's largest creditor. Holmes states that she would vote against any plan that allowed Harris to retain the Property while not paying Holmes in full.

In the Ninth Circuit, individual Chapter 11 debtors are subject to the absolute priority rule. *Zachary v. California Bank & Tr.*, 811 F.3d 1191 (9th Cir. 2016). This

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means that to confirm a plan over Holmes' opposition, the plan must either (1) provide for payment of the Judgment in full or (2) not permit Harris to retain the Property. Harris' objective in seeking bankruptcy protection was to save the Property, which limits Harris to proposing a plan that would provide for payment of the Judgment in full.

Even a plan funded by all of Harris' assets other than the Property would fall far short of paying the Judgment in full. The Judgment exceeds \$3 million; the unencumbered assets of the Pension Plan and 401k Plan total approximately \$630,000. (This calculation assumes that Harris would be willing to devote even exempt assets to funding a plan.) Payment of the entirety of Harris' retirement assets toward the Judgment would leave \$2.37 million of the Judgment unsatisfied. Assuming a very favorable interest rate of 3%, a plan providing for the payment of the remaining \$2.37 million over 30 years would require monthly payments of \$9,992.02. According to Schedule J, Harris' monthly net income is only \$3,918.11—less than half the amount required to fund a plan.

Harris asserts that a plan could also be funded by potential malpractice and indemnity claims. But Harris has provided no meaningful evidence that any claims she does possess would generate funds sufficient to make a plan confirmable. Harris' description of the claims is cursory and leaves the Court with serious doubts as to whether the claims would even be viable.

Second, Harris did not have financial problems other than the Judgment as of the Petition Date, and there are no significant creditors other than Holmes. Other than the \$3 million Judgment, Harris' liabilities consist of (1) unpaid tax debt of approximately \$6,000.00, (2) credit card debt of approximately \$5,000.00, (3) and several months of arrearages on the Property's mortgage. The liabilities aside from the Judgment are *de minimis* and could easily be dealt with outside of Chapter 11. This case is a two-party dispute between Holmes and Harris that was in the process of being resolved before the Ninth Circuit prior to the filing of the petition.

Third, there is no indication that Harris acted in good faith to attempt to post a supersedeas bond prior to seeking bankruptcy protection. As an explanation for her failure to obtain a supersedeas bond, Harris states that LA County and LASD control all aspects of her appeal, and that in any event it would be futile for Harris to attempt to secure a supersedeas bond given the size of the Judgment. This explanation does not show that Harris "exhaust[ed] all efforts" to obtain a supersedeas bond, *Mense*, 509 B.R. at 280–81. Instead, it shows that Harris made no real effort to obtain a supersedeas bond. She did not, for example, petition the District Court to allow her to post a bond in less than the full amount of the Judgment. A Chapter 11 petition is filed in bad faith where the debtor "made no sincere attempt to post the supersedeas bond or seek further

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reduction” in the bond, *In re Chu*, 253 B.R. 92, 95 (S.D. Cal. 2000).

Fourth, there is no business to reorganize. But for the Judgment and Holmes’ attempts to enforce it, Harris would not have sought bankruptcy protection.

Where, as here, a Chapter 11 petition has been filed in bad faith, the Court must determine whether dismissal or conversion in the best interests of creditors. *Shulkin Hutton, Inc. v. Treiger (In re Owens)*, 552 F.3d 958, 961 (9th Cir. 2009). Because Holmes is the only meaningful creditor, the Court primarily considers the interests of Holmes in making this determination. The Court finds that dismissal, rather than conversion, is in Holmes’ interest. Conversion would result in the accrual of administrative fees which would reduce Holmes’ recovery.

Dismissal is also required under § 521(e)(2)(B), as a result of Harris’ failure to timely provide a copy of her tax return to Holmes. Under § 521(e)(2)(A)(i), the debtor must provide, by not later than seven days prior to the meeting of creditors, a copy of the debtor’s tax return for the most recent tax year to any creditor that timely requests such a copy. Here, Holmes requested a copy of Harris’ tax return on March 30, 2020, well before the April 27, 2020 meeting of creditors. As of April 28, 2020—the date of the filing of the Motion to Dismiss—Harris had not provided the tax return.

Pursuant to § 521(e)(2)(B), the Court is required to dismiss the case unless Harris demonstrates that the failure to provide her tax return is due to circumstances beyond her control. Harris has made no such showing. Instead, she claims that the requirement to provide tax returns applies only in Chapter 7 and Chapter 13, not in Chapter 11.

The plain language of § 521(e)(2)(B) does not except Chapter 11 debtors-in-possession from providing tax returns to creditors making a timely request. In addition, courts construing § 521(e)(2)(B) have held that the provision applies to Chapter 11 debtors. *See, e.g., In re Stewart*, No. 11-04129-8-JRL, 2012 WL 3732798, at \*2 (Bankr. E.D.N.C. Aug. 28, 2012). As Harris has not shown that circumstances beyond her control prevented her from supplying her tax return, the Court must also dismiss this case pursuant to § 521(e)(2)(B).

### **III. Conclusion**

Based upon the foregoing, the Chapter 11 petition is **DISMISSED**, pursuant to § 1112(b). The Motion for Relief from the Automatic Stay is **DENIED AS MOOT** in view of the dismissal. Within seven days of the hearing, Holmes shall submit orders incorporating this tentative ruling by reference.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz at 213-894-1522. **If you**

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**intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Holmes also asserts that Harris testified at the § 341(a) meeting that she received approximately \$125,000 from refinancing her home in October 2019. As discussed in Section II.A., below, the Court does not consider this alleged testimony because Holmes has not supplied a transcript of the § 341(a) meeting.

**Note 2**

Holmes also asserts that Harris' bad-faith is shown by alleged inconsistencies between testimony Harris gave at the § 341(a) meeting and information in the petition regarding certain pre-petition transfers. As discussed in Section II.A., below, the Court does not consider Harris' § 341(a) testimony because Holmes has not supplied a transcript of the § 341(a) meeting.

**Note 3**

The following alleged facts are not considered because they are predicated only upon Bisconti's recollection of Harris' § 341(a) testimony and are not supported by any other evidence in the record:

- 1) Harris withdrew \$125,000 from the Property in a refinancing transaction conducted in October 2019.
- 2) Harris withdrew approximately \$45,000 from a retirement account in October 2019.
- 3) Harris did not explore the possibility of posting a supersedeas bond.
- 4) Harris stated at the § 341(a) meeting that the only purpose for seeking bankruptcy protection was to deal with the Judgment.

**Party Information**

**Debtor(s):**

Rosalina Lizardo Harris

Represented By  
Jeffrey B Smith

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**#4.00** HearingRE: [10] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Crystal Holmes v. Rosalina Harris, et. al.; Case Number: 19-56200; Ninth Circuit Court of Appeals . (Bisconti, Anthony) WARNING: See entry #[17] for corrective action. Attorney to re-notice for 5/26/20 at 10:00 a.m.; Modified on 4/29/2020 (Evangelista, Maria). Modified on 4/29/2020 (Evangelista, Maria). WARNING: Attorney not required to re-notice. Matter is on calendar on 5/19/2020 at 10:00 a.m. Modified on 4/29/2020 (Lomeli, Lydia R.).

Docket 10

**Tentative Ruling:**

5/18/2020

See Cal. No. 4, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Rosalina Lizardo Harris

Represented By  
Jeffrey B Smith



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2:18-20151 Verity Health System of California, Inc.

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#1.00 Hearing re [4688] Assumption Objection Asserted by CIGNA HEALTHCARE OF CALIFORNIA, INC. (CIGNA CA), CIGNA HEALTH AND LIFE INSURANCE COMPANY (CHLIC), LIFE INSURANCE COMPANY OF NORTH AMERICA (LINA), CIGNA DENTAL HEALTH PLAN OF ARIZONA, INC. (CIGNA AZ), CIGNA DENTAL HEALTH OF CALIFORNIA, INC. (CIGNA DENTAL CA), AND CIGNA DENTAL HEALTH OF TEXAS, INC. (CIGNA TX, AND COLLECTIVELY WITH CIGNA CA, CHLIC, LINA, CIGNA AZ, AND CIGNA DENTAL CA, CIGNA)

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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#2.00 Continued Hearing

RE: [4360] Motion For Sale of Property of the Estate under Section 363(b) - No Fee To Approve Terms And Conditions of A Private Sale of Certain of The Debtors Assets Related To Seton Medical Center To AHMC Healthcare Inc.

fr. 4-22-20

Docket 4360

\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.

**Tentative Ruling:**

4/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Sale Motion is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Motion to Approve Terms and Conditions of a Private Sale of Certain of the Debtors' Assets Related to Seton Medical Center to AHMC Healthcare Inc. [Doc. No. 4360] (the "Sale Motion")
  - a) Notice of Hearing on Debtors' Motion to Approve Terms and Conditions of a Private Sale of Certain of the Debtors' Assets Related to Seton Medical Center to AHMC Healthcare Inc. [Doc. No. 4839]
    - i) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 4360 and 4364 [Doc. No. 4453]
    - ii) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Notice of Hearing on Debtors' Motion to Approve Terms and Conditions of a Private Sale of Certain of the Debtors' Assets Related to Seton Medical Center to AHMC Healthcare Inc. [Doc. No. 4454]
- 2) Papers filed in Support of the Sale Motion:
  - a) AHMC Healthcare Inc.'s Reply in Support of Debtors' [Sale Motion] [Doc. No. 4576]

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- i) Declaration of Erick Tuckman Regarding the Qualification of AHMC Healthcare, Inc. as Good-Faith Purchaser Pursuant to 11 U.S.C. § 363(m) in Connection with the Sale of Certain Assets [Doc. No. 4577]
- b) Declarations of the Seton Medical Staff in Support of Sale Motion [Doc. No. 4413]
- c) Letter of the National Union of Healthcare Workers in Support of Sale Motion [Doc. No. 4600]
- 3) Responses, Objections, and Reservations of Rights:
  - a) Limited Objection to Debtors' [Sale Motion] [filed by UnitedHealthcare Ins. Co.] [Doc. No. 4467]
  - b) Limited Objection of 2017 Working Capital Notes Trustee to [Sale Motion] [Doc. No. 4534]
  - c) Hooper Healthcare Consulting, LLC's (1) Limited Response to Debtors' Motion to Approve Terms and Conditions of a Private Sale of Certain of Debtors' Assets Related to Seton Medical Center to AHMC Healthcare, Inc.; (2) Joinder in Objection Thereto Filed by Cigna Healthcare of California, Inc.; and (3) Reservation of Rights [Doc. No. 4546]
  - d) Amended Objection of Cigna Entities to Debtors' Motion to Approve Terms and Conditions of a Private Sale of Certain of Debtors' Assets Related to Seton Medical Center to AHMC Healthcare, Inc. [Doc. No. 4503]
  - e) Response and Reservation of Rights of the State of California Governor's Office of Emergency Services to the [Sale Motion] [Doc. No. 4565]
  - f) Official Committee of Unsecured Creditors' Response to the Debtors' Motion to Approve Private Sale of Seton Medical Center to AHMC Healthcare Inc. [Doc. No. 4528]
- 4) Replies in Support of the Sale Motion:
  - a) Debtors' Reply to Oppositions Filed by UnitedHealthcare Insurance Company and Cigna Healthcare of California, Inc. to the [Sale Motion] [Doc. No. 4579]
  - b) Debtors' Reply to Response Filed by the Official Committee of Unsecured Creditors to the [Sale Motion] [Doc. No. 4604]
  - c) Supplement to [Sale Motion] [filed by the Debtors] [Doc. No. 4624]
- 5) Other Relevant Papers:
  - a) Notice of Intent to Bid on Seton Assets and Request for Opportunity to Bid [filed by KPC Global Medical Center of San Mateo County, LLC] [Doc. No. 4347]
  - b) Notice by KPC Global Medical Center of San Mateo County, LLC of Withdrawal of Offers to Purchase Seton Assets [Doc. No. 4622]
- 6) Orders and Stipulations Resolving Issues or Preserving Issues for Adjudication at a

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Later Date:

- a) Order Approving Stipulation Resolving Limited Objection of 2017 Working Capital Notes Trustee to [Sale Motion] [Doc. No. 4598]
  - i) Stipulation Resolving Limited Objection of 2017 Working Capital Notes Trustee to [Sale Motion] [Doc. No. 4592]
- b) Order Approving Stipulation Between the Debtors and AT&T Corporation, AT&T Services, Inc., and Their Affiliates Approving Certain Language to Be Included in Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No. 4597]
  - i) Stipulation Between the Debtors and AT&T Corporation, AT&T Services, Inc., and Their Affiliates Approving Certain Language to Be Included in Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No. 4591]
- c) Order Approving Stipulation Resolving California Statewide Communities Development Authority Lien Release Pursuant to the Proposed Sale of Certain of the Debtors' Assets Related to Seton Medical Center [Doc. No. 4613]
  - i) Stipulation Resolving California Statewide Communities Development Authority Lien Release Pursuant to the Proposed Sale of Certain of the Debtors' Assets Related to Seton Medical Center [Doc. No. 4583]
- d) Order Approving Second Stipulation Continuing Objection Deadline of the U.S. Department of Health and Human Services and Centers for Medicare and Medicaid Services Related to the Proposed Transfer of the Medicare Provider Agreement Related to Seton Medical Center [Doc. No. 4568]
  - i) Second Stipulation Continuing Objection Deadline of the U.S. Department of Health and Human Services and Centers for Medicare and Medicaid Services Related to the Proposed Transfer of the Medicare Provider Agreement Related to Seton Medical Center [Doc. No. 4566]
- e) Order Approving Second Stipulation Continuing Objection Deadline of the California Department of Health Care Services Related to the Proposed Transfer of the Medi-Cal Provider Agreement Related to Seton Medical Center [Doc. No. 4567]
  - i) Second Stipulation Continuing Objection Deadline of the California Department of Health Care Services Related to the Proposed Transfer of the Medi-Cal Provider Agreement Related to Seton Medical Center [Doc. No. 4562]
- f) Order Approving Stipulation Approving Certain Language to Be Included in Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No.

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- i) Stipulation Approving Certain Language to Be Included in Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No. 4496]

## **I. Facts and Summary of Pleadings**

Debtors move for entry of an order approving a private sale (the "Sale") of certain assets (the "Purchased Assets" or the "Seton Assets") of Debtors Seton Medical Center ("Seton"), Verity Holdings, LLC ("Holdings"), and Verity Health System of California, Inc. ("VHS") to AHMC Healthcare, Inc. ("AHMC"). Doc. No. 4360 (the "Sale Motion").

### **A. Background**

On August 31, 2018 (the "Petition Date"), VHS and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. Doc. No. 17.

As of the Petition Date, the Debtors operated six acute care hospitals. On December 27, 2018, the Court authorized the Debtors to sell two of their hospitals—O'Connor Hospital and Saint Louise Regional Hospital—to Santa Clara County (the "Santa Clara Sale"). The Santa Clara Sale closed on February 28, 2019.

#### **1. The Failed SGM Sale**

On February 19, 2019, the Court entered an order establishing bidding procedures [Doc. No. 1572] (the "Bidding Procedures Order") for the auction of the Debtors' four remaining hospitals—St. Francis Medical Center ("St. Francis"), St. Vincent Medical Center (including St. Vincent Dialysis Center) ("St. Vincent"), and Seton (including Seton Medical Center Coastside ("Seton Coastside")) (collectively, the "Hospitals"). Under the Bidding Procedures Order, Strategic Global Management ("SGM") was designated as the stalking horse bidder. SGM's bid for all four of the Hospitals was \$610 million. The Bidding Procedures Order approved an Asset Purchase Agreement between the Debtors and SGM (the "SGM APA").

The Hospitals were extensively marketed by the Debtors' investment banker, Cain Brothers, a division of KeyBank Capital Markets, Inc. ("Cain"). Cain notified ninety parties of the auction process. Sixteen of these parties requested continued access to a data room containing information about the Hospitals.

Notwithstanding Cain's thorough marketing efforts, the Debtors did not receive any qualified bids for all of the Hospitals. The Debtors received one bid to purchase only St. Vincent and one bid to purchase only St. Francis. After consulting with the Official

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Committee of Unsecured Creditors (the "Committee") and the largest secured creditors, the Debtors determined not to conduct an auction. On May 2, 2019, the Court entered an order finding that SGM was the winning bidder and approving the sale to SGM (the "SGM Sale").

On November 27, 2019, the Court entered a memorandum of decision and accompanying order finding that as of November 19, 2019, all conditions precedent under the SGM APA to SGM's obligation to close the SGM Sale had been satisfied. Doc. Nos. 3723–24. The Court found that pursuant to § 1.3 of the APA, SGM was obligated to close the SGM Sale by no later than December 5, 2019. *Id.* SGM did not close the sale by December 5, 2019. On December 27, 2019, the Debtors sent SGM a notice terminating the APA and asserting that SGM had materially breached the SGM APA. Doc. No. 3899.

On January 3, 2020, the Debtors filed a *Complaint for Breach of Contract, Promissory Fraud, and Tortious Breach of Contract (Breach of Implied Covenant of Good Faith and Fair Dealing)* [Doc. No. 1, Adv. No. 2:20-ap-01001] (the "SGM Complaint") against SGM, KPC Healthcare Holdings, Inc., KPC Health Plan Holdings, Inc., KPC Healthcare, Inc., KPC Global Management, LLC, and Kali P. Chaudhuri, M.D. (collectively, the "Defendants"). The gravamen of the Complaint is that the Defendants induced the Debtors to enter into the SGM APA under false pretenses, never intended to perform under the SGM APA, and continuously breached the SGM APA. The Complaint asserts claims for breach of contract, promissory fraud, and tortious breach of contract based upon breach of the implied covenant of good faith and fair dealing. On March 4, 2020, the District Court withdrew the reference with respect to the Complaint. Doc. No. 59, Adv. No. 2:20-ap-01001.

2. Marketing Process 2020

Subsequent to the failure of the SGM Sale, Cain commenced a new marketing process to identify parties interesting in acquiring the Seton Assets. Cain contacted parties who had previously expressed interest and posted an updated Confidential Information Memorandum in the online data room.

On January 10, 2020, two bidders submitted non-binding Indications of Interest ("IOI") to acquire the Seton Assets. One of the bidders elected not to move forward with its bid. Negotiations with the remaining bidder, AHMC, led to the Asset Purchase Agreement (the "APA").

3. Unsolicited Offers Submitted by SGM and SGM's Affiliate GMC

On February 13, 2020, SGM submitted an unsolicited *Offer to Purchase* (the "SGM

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Seton Offer"). The SGM Seton Offer (a) proposed the acquisition of the Seton Assets for \$60 million cash, (b) was subject to a seven-day due diligence period, and (c) was subject to California Attorney General approval.

On February 25, 2020, SGM submitted an unsolicited *Offer to Purchase* (the "SGM System Offer") the assets that were the subject of the SGM APA for \$450 million (\$160 million less than the purchase price under the SGM APA).

On March 6, 2020, KPC Global Medical Center of San Mateo County, LLC ("GMC") submitted an unsolicited offer to purchase the Seton Assets for \$50 million (\$10 million less than the SGM Seton Offer). GMC is an affiliate of SGM, and was the Seton acquisition entity originally formed for the failed SGM Sale.

Prior to the filing of the Sale Motion, GMC filed with the Court a document captioned *Notice of Intent to Bid on Seton Assets and Request for Opportunity to Bid* [Doc. No. 4347] (the "Notice"). The Notice acknowledges that "the issue of how or when a Seton sale will be conducted is not currently before the Court." Notice at 2. The Notice requests that GMC be provided the opportunity to bid for the Seton Assets, and asserts that "opening the sale process to competitive bidding would be in the best interests of all parties in interest in the Debtors' cases as well as in the interests of the San Mateo community, the Seton employees, and healthcare practitioners." *Id.* GMC did not file an opposition to the Sale Motion.

4. Agreement with the State of California Regarding Treatment of COVID-19 Patients

On March 20, 2020, the Court authorized the Debtors to enter into a *Services Agreement* (the "Seton Agreement") with the California Department of Public Health and the State of California Governor's Office of Emergency Services (the "Office of Emergency Services"). Doc. No. 4315. Under the Seton Agreement, the Debtors receive payments in exchange for providing healthcare services to COVID-19 patients. The Seton Agreement terminates on the 181st day after entry of an order by the Bankruptcy Court approving the Agreement, unless extended by mutual consent.

The Seton Agreement "may not be assigned, absent the State's written consent via an amendment to this Agreement, which shall not be unreasonably withheld." Seton Agreement at § 1.1. "In evaluating whether assignment is reasonable, the proposed assignee shall be required to provide adequate assurance to the State of its ability to perform all ... remaining obligations under this Agreement." *Id.*

AHMC is aware of the Seton Agreement and intends to cooperate with the Office of Emergency Services in order to achieve an assignment of the Seton Agreement that is consistent with its terms.

The Office of Emergency Services does not object to the Sale Motion, provided that

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the final order approving the Sale Motion (the "Sale Order") is consistent with the Seton Agreement. The Office of Emergency Services filed a reservation of rights because it has not yet reviewed the proposed Sale Order.

5. Material Provisions of the APA

The material terms of the APA are as follows (capitalized terms have the meaning set forth in the APA):

- 1) The Purchase Price is \$40 million in cash (the "Cash Consideration"), plus an amount equal to the Cure Costs incurred in connection with any Assigned Leases and/or Assigned Contracts. APA at § 1.1(a).
- 2) The deposit is 20% of the Cash Consideration (\$8 million) (the "Deposit"). *Id.* at § 1.2.
- 3) Sellers shall submit the sale to the California Attorney General (the "Attorney General") for review pursuant to Cal. Corp. Code § 5914 *et seq.* *Id.* at § 8.5. The conditions on the transaction which the Purchaser has agreed to accept are set forth in Schedule 8.5 (the "Approved Conditions"). *Id.* In the event the Attorney General seeks to impose conditions not substantially consistent with the Approved Conditions (the "Additional Conditions"), Sellers shall file a motion seeking entry of an order (a "Supplemental Sale Order") finding that the Additional Conditions are an "interest in property" for purposes of § 363(f), and that the Assets can be sold free and clear of the Additional Conditions. *Id.* If Sellers do not obtain a Supplemental Sale Order within thirty days of the Attorney General's imposition of the Additional Conditions, Purchaser shall have the right to terminate the APA and receive the return of its Deposit. *Id.* If Sellers timely obtain a Supplemental Sale Order that is unstayed, the condition precedent of obtaining Attorney General approval shall be deemed satisfied. *Id.*
- 4) Sellers shall use commercially reasonable efforts to facilitate the renegotiation of collective bargaining agreements currently in effect. The Sellers' failure to secure modification of any collective bargaining agreement shall not be a breach of Sellers' obligations under the APA. *Id.* at § 4.7.
- 5) Either Sellers or Purchaser may terminate the APA if the sale has not closed on or before September 1, 2020. *Id.* at § 9.1(g).

6. Proposed Procedures Pertaining to the Assumption and Assignment of Executory Contracts and Unexpired Leases



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The Debtors propose that the following procedures apply to the assumption and assignment of executory contracts and unexpired leases:

- 1) The Debtors will file with the Court and serve a cure notice (the "Cure Notice") upon each counterparty to an executory contract or unexpired lease which the Debtors seek to assume and assign in connection with the sale (the "Assigned Executory Contracts").
- 2) The Cure Notice will identify the amounts, if any, that the Debtors believe are owed to each counterparty to an Assigned Executory Contract in order to cure any defaults that exist under such contract (the "Cure Amounts"). The Cure Notice will also specify the deadlines for counterparties to (a) object to the sufficiency of the Cure Amounts and/or (b) object to the assumption and assignment of the Assigned Executory Contracts.

**B. Summary of Papers Filed in Support of the Sale Motion by the Medical Staff of Seton, the National Union of Hospital Workers, and AHMC**

**1. Medical Staff of Seton**

The Medical Staff of Seton (the "Medical Staff") is an association of more than 250 doctors who practice at Seton. Eight doctors who are members of the Medical Staff submitted declarations supporting the sale to AHMC and opposing any sale to SGM or its affiliates. The declaration testimony may be summarized as follows:

- 1) A prompt sale of Seton to AHMC is critical. Employees at Seton have been subjected to significant stress and uncertainty in connection with the failed SGM Sale. As a result of the hospital's uncertain future, Seton has lost multiple key physicians and has lost a quarter of its nurses. Seton and its remaining employees desperately need the stability that would result from a sale to AHMC.
- 2) The Medical Staff's Medical Executive Committee (the "MEC") has conducted due diligence of AHMC and SGM. AHMC authorized the MEC to tour its hospitals in Southern California. The MEC was impressed by the condition of AHMC's hospitals and the quality of its administrators. SGM never granted the MEC permission to tour its hospitals, even after Dr. Robert Perez, President of the Medical Staff, personally requested permission.
- 3) Based on its due diligence, the MEC came to the following conclusions:
  - a) AHMC has a long and successful history of turning around distressed hospitals such as Seton.

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- b) AHMC has a broad and deep bench of capable administrators who could effectuate a transition. By contrast, SGM did not have the administrative bandwidth to successfully assume operations at Seton in December 2019.
- c) AHMC organized many of the primary care doctors at Seton into a functional Independent Practice Association and has maintained a good relationship with the doctors. In contrast, at multiple meetings with SGM's few senior transition management personnel, it became clear that SGM's representatives lacked an understanding of how to effectively organize Seton's physicians.
- d) Many of Seton's unions also represent employees at AHMC hospitals. Those unions are very supportive of an acquisition of Seton by AHMC.

2. National Union of Hospital Workers

The National Union of Hospital Workers (the "NUHW") submitted a letter in support of the sale to AHMC, which provides in relevant part:

We prefer a private sale between Verity Health System and AHMC so that caregivers and patients can finally be certain that Seton will remain open and able to provide the care our community needs....

[In connection with the failed SGM Sale], SGM agreed to hire back substantially all of the workers at Seton and Seton Coastside. As Seton was preparing for operations they gave us a list of terminations that essentially gutted core staff that would leave key hospital functions in the lab, infections control and registrar without adequate coverage, and force remaining staff to change their shifts to cover swing and night shifts....

Even though NUHW members have not met face-to-face with AHMC, the company has been much more transparent and public about their intentions. AHMC has committed to hire *all* of the workers. AHMC also has a track record of turning around distressed hospitals that have high levels of Medicare and Medi-Cal recipients.

NUHW Letter at 3-4 [Doc. No. 4600].

3. AHMC

Purchaser AHMC asserts that the Court should approve its purchase of the Seton Assets for the following reasons:

AHMC is the fourth largest health system in Southern California with annual

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revenues in excess of \$1 billion. AHMC's hospitals have won numerous awards, including, but not limited to, Stroke Care Excellence Award, Emergency Medicine Excellence Award, Critical Care Excellence Award, General Surgery Excellence Award, Pulmonary Care Excellence Award, Maternity Care Excellence Award, Patient Safety Excellence Award, and Cardiac Surgery Excellence Award.

AHMC has successfully turned around several distressed hospitals. In each of these instances, including San Gabriel Valley Medical Center, Anaheim Regional Medical Center, and Parkview Community Hospital Medical Center, AHMC received the approval of the California Attorney General and the required approvals from other state and federal regulators.

**C. Summary of the Official Committee of Unsecured Creditors' Response and the Debtors Reply Thereto**

The Official Committee of Unsecured Creditors (the "Committee") argues that the Court should permit GMC to bid for the Seton Assets, but only if GMC can meet the following five conditions to the Debtors' satisfaction:

- 1) GMC must provide a deposit in the amount of the larger of \$40 million (the AHMC purchase price) or 75% of GMC's ultimate purchase price.
- 2) GMC must waive all conditions and contingencies, such that GMC would be obligated to close.
- 3) GMC must expressly waive any right to appeal any order related to the sale of the Seton Assets.
- 4) SGM and the other defendants to the SGM Complaint must agree not to use any facts related to the sale of the Seton Assets to support any defenses. For example, the fact that the estate might proceed with a potential sale to GMC could not be used as evidence that SGM acted in good faith.
- 5) SGM and the other defendants to the SGM Complaint must agree not to use any facts related to the sale of the Seton Assets to reduce the amount of damages at issue in the SGM Complaint.

The Debtors oppose an auction in which SGM or its affiliate GMC is permitted to bid for the Seton Assets. The Debtors assert that a sale to SGM or an affiliated entity would involve substantial risk regardless of SGM's commitments, because of the significant possibility that the sale would not close.

**D. Summary of the Limited Objections Filed by United Healthcare Insurance**

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**Company and the Cigna Entities and the Debtors' Replies Thereto**

UnitedHealthcare Insurance Company ("UnitedHealthcare") provides healthcare insurance benefits to members insured under its group medical policies through a network of providers. UnitedHealthcare and Seton are parties to a *Facility Participation Agreement* with an effective date of April 1, 2007 (the "FPA"), pursuant to which Seton provides certain covered healthcare services to UnitedHealthcare's members in exchange for certain fees.

UnitedHealthcare asserts that the Debtors should be required to provide an irrevocable designation as to whether the FPA will be assumed and assigned by no later than 40 days prior to the closing of the sale. UnitedHealthcare maintains that it requires such notice in order to comply with its regulatory obligations.

Cigna Healthcare of California, Inc., Cigna Health and Life Insurance Company, Life Insurance Company of North America, Cigna Dental Health Plan of Arizona, Inc., Cigna Dental Health of California, Inc., and Cigna Dental Health of Texas, Inc. (collectively, the "Cigna Entities") are parties to various executory contracts with the Debtors (the "Cigna Contracts"). The Cigna Contracts include (a) the Cigna Provider Agreement, under which customers of the Cigna Entities received healthcare services provided by the Debtors; (b) the LINA Policies, under which the Cigna Entities provide group disability benefits for employees of the Debtors; and (c) four separate dental insurance policies (the "Cigna Dental Policies"), under which the Cigna Entities provide dental insurance to employees of the Debtors (the Cigna Dental Policies, together with the LINA Policies, the "Employee Benefits Contracts").

The Cigna Entities assert that the Debtors should be required to provide an irrevocable designation regarding the assumption and assignment of the Cigna Provider Agreement by no later than 30 days prior to the closing of the sale. The Cigna Entities further assert that the Debtors should be required to designate the proposed disposition of Employee Benefits Contracts in advance of the Sale Hearing, based on the fact that the disposition of the Employee Benefits Contracts could significantly affect benefits coverage for the Debtors' employees. Finally, the Cigna Entities contend that the Debtors should be required to provide adequate assurance of the AHMC's future performance under the Cigna Contracts by no later than two business days after entry of the Sale Order.

The Debtors have agreed to provide an irrevocable designation regarding assumption and assignment by no later than forty days prior to closing, as requested by UnitedHealthcare and the Cigna Entities. The Debtors oppose as premature the Cigna Entities' request that the Debtors be required to provide adequate assurance information within two days of entry of the Sale Order. The Debtors assert that adequate assurance

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issues should be adjudicated at a hearing on all assumption objections, which the Debtors have requested take place on May 20, 2020.

## **II. Findings and Conclusions**

### **A. The Sale Motion is Granted**

Section 363(b) authorizes the Debtors to sell estate property out of the ordinary course of business, subject to court approval. “All sales not in the ordinary course of business may be by private sale or by public auction.” Bankruptcy Rule 6004(f). As explained by one court:

Bankruptcy Rule 6004(a) requires notice be given to the debtor, trustee and all creditors, in order that they may object to the proposed sale. Unlike former Bankruptcy Rule 606(b)(2), which required that sales be by public auction unless otherwise ordered by the Court, current Bankruptcy Rule 6004(e)(1) provides that *all* sales not in the ordinary course of business may be private or by public auction.... Clearly, the thrust of this statutory scheme is to provide maximum flexibility to the trustee, subject to the oversight of those for whose benefit he acts, *i.e.*, the creditors of the estate. This scheme also promotes Congress’ intent of keeping bankruptcy judges out of the administrative aspect of bankruptcy cases, since the Court no longer supervises sales as it did under the repealed Bankruptcy Act.

*In re NEPSICO, Inc.*, 36 B.R. 25, 26 (Bankr. D. Me. 1983) (internal citations omitted).

In determining whether to approve a sale transaction, “courts consider whether the trustee exercised sound business judgment.” *In re MF Glob. Inc.*, 535 B.R. 596, 605 (Bankr. S.D.N.Y. 2015). “The business judgment of a trustee is entitled to great deference. A trustee generally satisfies the business judgment standard if he ‘acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.’” *Id.* (internal citations omitted); *see also In re 160 Royal Palm, LLC*, 600 B.R. 119, 126 (S.D. Fla.), *aff’d*, 785 F. App’x 829 (11th Cir. 2019) (“A debtor’s business decision should be approved by the court unless it is shown to be so manifestly unreasonable that it could not be based upon sound business judgment, but only on bad faith, or whim or caprice.”).

The Debtors’ decision to not consider GMC’s unsolicited offer and to instead proceed by way of a private sale to AHMC was an appropriate exercise of business judgment to which the Court must defer. In reaching this decision, the Debtors considered the following:

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- The Seton Assets were extensively marketed by Cain. The only parties interested in acquiring the assets were AHMC and GMC.
- GMC's affiliate, SGM, did not close the SGM Sale even after the Court entered an order finding that all conditions precedent to closing had been satisfied and that SGM was required to close. As a result, Richard G. Adcock, VHS' CEO, does not believe that GMC is "trustworthy, believable or a capable or reliable business partner." Adcock Decl. at ¶ 12. In contrast, AHMC "has shown the financial ability to close this transaction." *Id.* at ¶ 10.
- Peter C. Chadwick, a Managing Director at Berkeley Research Group, LLC, the Debtors' financial advisors, concluded that GMC's offer "yielded negative value given the risk that SGM, or its affiliate GMC, will not close." Chadwick Decl. at ¶ 6. The risk that GMC would not close would be especially detrimental to the estates as a result of the substantial "operating losses that would be incurred during the regulatory review and approval of the sale." *Id.* Finally, the all cash structure of the AHMC transaction minimizes the risk of the Debtors becoming subject to tax remediation claims for failure to defease tax exempt financing issued through the California Statewide Communities Development Authority. *Id.*
- Doctors who work at Seton support a private sale to AHMC and oppose a process under which GMC would have the opportunity to bid. The Medical Staff at Seton (the "Medical Staff"), an organization composed of doctors at the hospital, conducted extensive due diligence on both AHMC and SGM. Dr. Robert Perez, President of the Medical Staff, testifies that as of December 2019, the month that the SGM Sale was scheduled to close, SGM "did not have the administrative bandwidth necessary" to operate Seton. Perez Decl. at ¶ 10b. In contrast, Dr. Perez testifies that AHMC has "a broad and deep bench of capable administrators who could ... effectively administer Seton." *Id.*

As illustrated by the foregoing, the Debtors arrived at the decision to pursue a private sale to AHMC after carefully considering the relevant facts. The Court finds that the Debtors reached this decision in good faith and with the belief that a transaction with AHMC is in the best interest of the estates. As such, the decision to proceed by way of a private sale constitutes a valid exercise of the Debtors' business judgment which must be accorded deference. The Court approves the sale of the Seton Assets to AHMC.

At 10:10 a.m. on the day prior to the Sale Hearing, GMC filed a document captioned

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*Notice by KPC Global Medical Center of San Mateo County, LLC of Withdrawal of Offers to Purchase Seton Assets* [Doc. No. 4622] (the "Withdrawal Notice"). The Withdrawal Notice states that GMC "withdraws its prior offers for the purchase of the Seton Medical Center Facilities." After making this statement, the Withdrawal Notice contains two pages of allegations against the Debtors, all to the effect that the Debtors have refused to engage with GMC regarding the sale of the Seton Assets.

The Court declines to consider the unsubstantiated allegations against the Debtors set forth in the Withdrawal Notice. Had GMC wished to inform the Court of the withdrawal of its prior offers, the first sentence of the Withdrawal Notice would have sufficed. The Withdrawal Notice does not seek any affirmative relief, such as denial of the Sale Motion, suggesting that the document may be a tactical filing intended to influence the litigation against SGM in the District Court. The allegations set forth in the Withdrawal Notice are not supported by declaration testimony or any other evidence, in violation of Local Bankruptcy Rule 9013-1(i). [**Note 1**]

Prior to the filing of the Withdrawal Notice, the Committee argued that the Court should consider an auction involving GMC, provided that GMC could meet various conditions. Proceeding with the Committee's suggested course of action would require the Court to deny the Sale Motion and would force the Debtors to obtain approval of bidding procedures governing the auction of the Seton Assets. The resulting delay would harm the estates by prolonging the period during which the Debtors must continue funding Seton's operating losses. And as set forth above, the Debtors' determination that GMC's bid was illusory and afforded negative value for the estates was a valid exercise of business judgment which the Court lacks the ability to disturb.

**B. AHMC is Entitled to § 363(m) Protections**

Section 363(m) provides that the "reversal or modification on appeal of an authorization ... of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal."

The purpose of § 363(m) is to discourage bidders from colluding for the purpose of driving down the sales prices at bankruptcy auctions. *See Ewell v. Diebert (In re Ewell)*, 958 F.2d 276, 281 (9th Cir. 1992) ("Typically, lack of good faith is shown by fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders").

Having reviewed the declarations of Richard G. Adcock (VHS' CEO), Peter C. Chadwick (a managing director at Berkeley Research Group, LLC, the Debtors'

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financial advisors), and Erick Tuckman (the Senior Advisor to the Chairman of the Board of AHMC), the Court finds that AHMC is a good-faith purchaser entitled to the protections of § 363(m). The Court makes this good-faith determination based upon the following findings of fact:

- 1) AHMC has no material connections with the Debtors, except for professional connections developed during the bidding process.
- 2) AHMC is not a creditor of the Debtors.
- 3) AHMC is not an “insider” of the Debtors as that term is defined in the Bankruptcy Code.
- 4) AHMC did not collude with any party for the purpose of reducing the sale price of the Seton Assets.
- 5) All negotiations between AHMC and the Debtors were conducted at arm’s-length and in good faith.
- 6) AHMC is not a mere continuation of the Debtors and its purchase of the Seton Assets does not constitute a de factor merger.

**C. Issues Resolved By Stipulation**

The Court has entered orders approving the stipulated resolution of limited objections raised by various parties.

**1. Limited Objection of the 2017 Notes Trustee**

U.S. Bank National Association, solely in its capacity as indenture trustee (the "2017 Notes Trustee") for the Series 2017 and Series 2017B Working Capital Notes (together, the "2017 Working Capital Notes") filed a limited objection seeking adequate protection of the rights of the 2017 Notes Trustee in the Sales Proceeds of Seton Coastside. The 2017 Notes Trustee requested that, prior to any approval of the combined sale of Seton and Seton Coastside by their respective separate Debtor estates, there first be a determination as to the allocation of the Sale Proceeds between the two estates. On April 17, 2020, the Court entered an order approving a stipulation [Doc. No. 4592] (the "2017 Notes Trustee Stipulation") between the Debtors and the 2017 Notes Trustee. Doc. No. 4598. The 2017 Notes Trustee Stipulation provides that the Debtors will allocate \$11.5 million of the Sale Proceeds into Holdings’ Escrow Deposit Account, provided that all of the rights of the Prepetition Secured Creditors with respect to such allocation are reserved to the extent set forth in paragraph 4 of the Final DIP Order [Doc. No. 409].

**2. Release of the Liens of the California Statewide Communities Development**



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Authority

The California Statewide Communities Development Authority (the "CSCDA") holds liens against the Seton Assets on account of financing issued under the CaliforniaFirst Program (the "CSCDA Liens"). The Debtors and CSCDA have stipulated to a release of the CSCDA Liens in exchange for two payments, in the amounts of \$2,381,377.21 and \$3,424,861.96 (both subject to certain adjustments), to be made at the closing of the sale. Doc. No. 4583 (the "CSCDA Stipulation"). On April 20, 2020, the Court entered an order approving the CSCDA Stipulation. Doc. No. 4613.

**D. Issues Reserved for Adjudication at a Later Date**

1. Issues Pertaining to the Assumption and Assignment of Executory Contracts and Unexpired Leases

The Court approves the procedures (the "Assumption Procedures") proposed by the Debtors with respect to the assumption and assignment of executory contracts and unexpired leases (the "Assigned Executory Contracts"). The Debtors shall file and serve the Cure Notice by no later than **April 29, 2020**. A hearing at which counterparties to Assigned Executory Contracts may object to the assumption and assignment of such contracts (each, an "Assumption Objection") shall take place on **May 20, 2020, at 10:00 a.m. (prevailing local time)**. Counterparties shall have until **May 6, 2020, at 5:00 p.m. (prevailing local time)** to serve an Assumption Objection. The Debtors shall have until **May 13, 2020, at 5:00 p.m. (prevailing local time)** to reply to an Assumption Objection.

The Cigna Entities' request that the Debtors be required to provide adequate assurance information within two days of entry of the Sale Order is overruled. The Assumption Procedures sufficiently protect the Cigna Entities' rights in the event that the Debtors designate any of the Cigna Contracts for assumption and assignment.

Hooper Healthcare Consulting, LLC ("Hooper") filed a joinder to the Cigna Entities' objection to the Assumption Procedures, as well as a reservation of rights. Hooper's objection to the Assumption Procedures is overruled. The Court confirms that all of Hooper's arguments with respect to the assumption of contracts to which it is a party are preserved for adjudication at the Assumption Objection Hearing scheduled for May 20, 2020, at 10:00 a.m.

2. AT&T's Lease Rights

AT&T Corporation, AT&T Services, Inc., and certain affiliates (collectively, "AT&T") are parties to a Medical Office Lease dated May 16, 1989 (the "AT&T

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Lease"). On April 17, 2020, the Court entered an order approving a stipulation [Doc. No. 4591] (the "AT&T Stipulation") between the Debtors and AT&T. Doc. No. 4597. The AT&T Stipulation provides that AT&T's rights under § 365(h), 363(e), and 363(f) are reserved, and that in the event the parties cannot resolve such matters consensually, the issues will be set for hearing on a mutually convenient date.

3. Authority of the California Attorney General to Review the Sale

On April 9, 2020, the Court approved a stipulation between the Debtors and the Attorney General [Doc. No. 4496] (the "AG Stipulation"). The AG Stipulation provides that the Sale Order shall contain the following provision reserving the parties' rights with respect to the Attorney General's authority to review the sale:

The California Attorney General, the Debtors, the Prepetition Secured Creditors, the Committee, and AHMC, reserve all rights, arguments and defenses concerning the California Attorney General's authority, if any, to review the sale under California Corporations Code §§ 5914-5924 and California Code of Regulations on Nonprofit Hospital Transactions—Title 11, Chapter 15, § 999.5, and any conditions issued thereto. Notwithstanding any provision to the contrary in the APA or the Sale Order, nothing in the APA or this Sale Order shall limit or be construed as a waiver of the Attorney General's statutory or regulatory authority or other rights or defenses, or a waiver of the Debtors' statutory or other rights or defenses.

Order Approving Stipulation Approving Certain Language to Be Included in Any Order Approving the Proposed Sale of Seton Medical Center [Doc. No. 4509] at ¶ 2.

4. Issues Pertaining to the Transfer of the Seton Medi-Cal and Medicare Provider Agreements

Pursuant to stipulations approved by the Court, a continued hearing on issues pertaining to the transfer of the Debtors' Medi-Cal and Medicare Provider Agreements is set for **May 13, 2020, at 10:00 a.m.** Doc. Nos. 4567 and 4568.

**E. Form of the Sale Order**

Debtors shall insure that the Office of Emergency Services is provided the opportunity to review the form of the Sale Order. Debtors and the Office of Emergency Services shall cooperate with respect to the form of the Sale Order to insure that the language therein is consistent with the Seton Agreement.

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### III. Conclusion

Based upon the foregoing, the Sale Motion is **GRANTED**.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

#### Note 1

In declining to consider the allegations set forth in the Withdrawal Notice, the Court notes that "[t]he statutes governing the sale of assets of bankruptcy estates are intended to protect the creditors of such estates and not prospective purchasers." *In re HST Gathering Co.*, 125 B.R. 466, 468 (W.D. Tex. 1991). A disappointed prospective purchaser, such as GMC, "is not within the 'zone of interests intended to be protected' under the bankruptcy statutes and regulations." *Id.* Applying this principle, the *HST Gathering* court upheld the bankruptcy court's refusal to accept a bid tendered in connection with an auction. The court held that the disappointed bidder lacked standing to appeal because he was "not a person whose interest was intended to be protected by the bankruptcy statutes or regulations." *Id.*; see also *Kabro Assocs. v. Colony Hill Assocs. (In re Colony Hill Assocs.)*, 111 F.3d 269, 273 (2d Cir. 1997) ("[A]n unsuccessful bidder—whose only pecuniary loss is the speculative profit it might have made had it succeeded in purchasing property at an auction—usually lacks standing to challenge a bankruptcy court's approval of a sale transaction."); *Stark v. Moran (In re Moran)*, 566 F.3d 676, 682 (6th Cir. 2009) ("A frustrated bidder lacks bankruptcy appellate standing when he merely alleges that he would have profited from his desired purchase, and does not allege, for instance, that fraud or impropriety prevented the estate from accepting his higher bid such that creditors would not receive as great a recovery as they would have had the estate accepted the higher bid.").

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

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Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**#3.00** Hearing re [4675] Assumption Objection Asserted by AETNA LIFE INSURANCE COMPANY.

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

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**#4.00** Hearing re [4677] Assumption Objection Asserted by MICROSOFT CORPORATION

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

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Samuel R Maizel

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**#5.00** Hearing re [4678] Assumption Objection Asserted by UNITEDHEALTHCARE INSURANCE COMPANY

Docket 0

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**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

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Tania M Moyron

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**#6.00** Hearing re [4681] Assumption Objection Asserted by HEALTH NET OF CALIFORNIA, INC.

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**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

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**#7.00** Hearing re [4682] Assumption Objection Asserted by KAISER FOUNDATION HOSPITALS

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**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

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**#8.00** Hearing re [4686] Assumption Objection Asserted by PARALLON REVENUE CYCLE SERVICES, INC.

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**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

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**#9.00** Hearing re [4690] Assumption Objection Asserted by HOOPER HEALTHCARE CONSULTING, LLC.

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

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Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 20, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#10.00** Hearing re [4692] Assumption Objection Asserted by HEALTH PLAN OF SAN MATEO

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, May 20, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#11.00 Hearing re [4693] Assumption Objection Asserted by ANUPAM ADITI M.D.

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 6-3-20 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, May 20, 2020

Hearing Room 1568

10:00 AM

2:19-16078 David Christopher Brady

Chapter 11

#12.00 Hearing  
RE: [112] Motion to Borrow and Motion to Approve Post-Petition Financing  
  
fr: 3-31-20

Docket 112

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-6-20

**Tentative Ruling:**

3/30/2020

**Amended 03/31/2020**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Financing Motion is **GRANTED CONTINUED to May 20, 2020 at 10:00 a.m. to permit the Debtor and Fairview to address payment of Fairview's outstanding claim. At any time prior to the continued hearing date, the parties may file a stipulation disposing of the issues discussed below at which time the continued hearing will go off calendar.**

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion to Approve Post-Petition Financing Pursuant to 11 U.S.C. §§ 363 and 364(c) [Doc. No. 112] (the "Financing Motion")
2. Lender's Statement in Response to Motion to Approve Post-Petition Financing Pursuant to 11 U.S.C. §§ 363 and 364(c) [Doc. No. 117]
3. As of the preparation of this tentative ruling, no other response or opposition is on file

**I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, David Christopher Brady (the "Debtor"), filed this voluntary chapter 11 case on May 24, 2019 (the "Petition Date"). The Debtor's largest asset consists of real property located at 1511 Summitridge Drive, Los Angeles, CA

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CONT... **David Christopher Brady**

**Chapter 11**

90210 (the "Property"). As set forth in a November 19, 2019 appraisal, the Property has a fair market value of \$5,270,000. *See* Declaration of David Christopher Brady ("Brady Decl."), ¶ 6. The Debtor's chapter 11 filing was precipitated by construction issues arising from the Property's remodel, which led to disputes with certain contractors, subcontractors, and the Property's then-senior lienholder, Banc of California ("Banc"). The Banc's secured loan is now held by Fairview Loans IV, LLC ("Fairview"). The Debtor asserts that the Property is encumbered by the following liens, listed herein in order of priority:

1. Fairview holds a secured senior lien in the sum of \$2,876,621.94;
2. Kindness General Contractors, LLC ("Kindness") holds a mechanics lien in the amount of \$144,596.20 [Note 1];
3. Los Angeles County Treasurer & Tax Collector ("LACTTC") holds a claim in the amount of \$40,040.63.

*See* Brady Decl., ¶ 5. On October 2, 2019, the Court approved the Debtor's settlement agreement with three subcontractors, pursuant to which, said subcontractors released mechanics liens against the Property [Doc. No. 54].

On March 2, 2020, the Debtor filed a post-petition financing motion implicating the above-referenced interests in the Property (the "Financing Motion"). The Debtor seeks to borrow debt totaling \$2,350,000 from Marquee Funding Group, Inc. ("Marquee") pursuant to §§ 363 and 364 (the "Loan"). The Loan will be secured by a first-priority lien in favor of Marquee. The Debtor states that despite expending reasonable efforts, he was not able to obtain financing on an unsecured basis. Brady Decl., ¶ 8.

The material terms of the Loan are as follows:

Loan Amount: \$2,350,000

Term: 24 months, fixed rate

- 24 monthly interest-only payments of \$19,583.33
- Balloon payment of \$2,369,583.33 due on 4/1/2022

Interest Rate: 10%

\*All lien and property taxes must be paid in full through escrow.

*See* Financing Motion at 5-6. In addition to the Loan, the Debtor asserts that his father will gift him \$886,661.51 for the purpose of paying off all liens asserted against the Property. In sum, the Debtor requests an order authorizing him to (1) finalize the Loan in

**United States Bankruptcy Court  
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Los Angeles  
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10:00 AM

CONT... **David Christopher Brady**

**Chapter 11**

accordance with the terms set forth in Exhibit A; (ii) use monies from the Loan and his father's monetary contribution to payoff or bond all liens against the Property in full; and (iii) replace Fairview's lien against the Property with a first-priority lien in favor of Marquee. The Debtor argues that the post-petition financing requested is in the best interests of all creditors and the estate as it will enable Debtor to fully pay-off or bond secured claims in excess of amounts owed. Moreover, given that there is sufficient equity in the Property, the Debtor asserts that all Property lienholders will be adequately protected.

On March 16, 2020, Fairview filed a response to the Financing Motion [Doc. No. 117]. Fairview clarifies that its secured loan is in default and non-performing, and but for Debtor's representations made herein, Fairview would have filed a stay relief motion. Notwithstanding, Fairview expects to receive a full payoff from Debtor, and therefore, it does not oppose the Financing Motion. The Lender, however, reserves all available rights against the Debtor.

As of this tentative ruling, there is no substantive opposition on file.

## **II. Findings of Fact and Conclusions of Law**

Section 364 governs the obtaining of credit or incurring of debt by a debtor in possession and sets forth the incentives that may be offered to induce potential lenders to extend post-petition credit. *In re Stanton*, 248 B.R. 823, 828 (B.A.P. 9th Cir. 2000) *aff'd*, 285 F.3d 888 (9th Cir. 2002) *opinion amended and superseded on denial of reh'g*, 303 F.3d 939 (9th Cir. 2002) and *aff'd*, 303 F.3d 939 (9th Cir. 2002). Section 364 provides in relevant part:

- (c) If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—
  - (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;
  - (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
  - (3) secured by a junior lien on property of the estate that is subject to a lien.
- (d)(1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate



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

**David Christopher Brady**

**Chapter 11**

that is subject to a lien only if—

- (A) the trustee is unable to obtain such credit otherwise; and
- (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

(2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

Based on its review of the Financing Motion, the Debtor's declaration, and all other supporting documents, the Court determines that the Debtor has been unable to obtain financing on terms more favorable than those provided in the Loan, and thereby the Financing Motion is in the best interests of secured creditors and the estate. As stated in the Escrow Closing Statement, secured creditors will be adequately protected because loan proceeds, along with Debtor's father's gift contribution, will be sufficient to pay off or bond all secured claims and tax liens in full. *See* Financing Motion, Ex. A. Following payoff of property taxes and Fairview's lien through escrow, and the bonding of Kindness's disputed claim, the Debtor's secured claims will be in good standing, allowing Debtor to grant Marquee a senior lien on the Property. *See id.* Therefore, the Debtor has satisfied the adequate protection showing under § 364(d)

Moreover, the Court deems the failure of any interested party to file a substantive opposition as consent to granting the Financing Motion pursuant to Local Bankruptcy Rule 9013-1(h).

### **III. Conclusion**

On March 31, 2020, the Court held a hearing on the Financing Motion. Appearances were as stated on the record. At the hearing, the Debtor, through his counsel, informed the Court that the parties were nearing a final resolution with respect to Fairview's secured claim. More specifically, the Debtor clarified that Fairview will be paid a bulk of its claim, not in full as represented in the Financing Motion. Accordingly, the Debtor requested the Court's permission to grant Fairview a second lien on the Property, which would be junior to Marquee's senior lien. Fairview, making an appearance through its counsel, confirmed that the parties were collaborating to resolve the outstanding claim. Having considered the parties' remarks, the Court finds it appropriate to CONTINUE the Financing Motion for approximately 60 days to May 20, 2020 at 10:00 a.m. The

**United States Bankruptcy Court  
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Los Angeles  
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CONT... **David Christopher Brady**

**Chapter 11**

continued hearing date shall serve as a holding date, but the parties may file a stipulation disposing of any remaining issues in the interim.

~~Based on the foregoing, the Financing Motion is GRANTED. As set forth above, the Debtor is authorized to close the Loan, payoff or bond all secured claims, and grant Marquee a senior lien against the Property. To expedite the closing of the Loan, the order approving the Financing Motion shall take effect immediately upon entry, notwithstanding Bankruptcy Rule 6004(h).~~

The Debtor shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor claims that although Kindness's lien is subject to dispute, \$200,000 from the Loan will be allocated to pay this lien. This sum is in excess of the debt amount listed in Kindness's proof of claim.

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

David Christopher Brady

Represented By  
Leslie A Cohen

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, May 20, 2020

Hearing Room 1568

11:00 AM

2:19-13763 Ya-Chuan Victor Lee

Chapter 11

#100.00 HearingRE: [116] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) -Business Equipment (with proof of service).

Docket 116

**Tentative Ruling:**

5/19/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived. The Debtor shall direct potential overbidders, if any, to contact the above-referenced number prior to the hearing.**

For the reasons set forth below, the Sale Motion is GRANTED. The Court will conduct the sale auction in accordance with the procedures set forth below.

**Key Sale Terms:**

- 1) Proposed purchasers: Linyang Zhao
- 2) Property for Sale: auto repair shop equipment (the "Equipment") [**Note 1**]
- 3) Purchase price: \$30,000
- 4) Overbids: The minimum overbid amount shall be \$32,000. Subsequent overbids shall be in increments of \$1,000.

**Pleadings Filed and Reviewed:**

- 1) Debtor's Motion to (1) Approve Sale of Personal Property Free and Clear of All Liens, Interests, Claims, and Encumbrances to Attach to Proceeds Pursuant to 11 U.S.C. §§ 363(b) and (f); (2) Approve Overbid Procedures; and (3) Determine that Buyer is a Purchaser in Good Faith Entitled to Protection Pursuant to 11 U.S.C. § 363(m) [Doc. No. 116] (the "Sale Motion")
  - a) Notice of [Sale Motion] [Doc. No. 117]
  - b) Notice of Sale of Estate Property [Doc. No. 120]
- 2) As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

**United States Bankruptcy Court  
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Los Angeles  
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CONT... Ya-Chuan Victor Lee

Chapter 11

The debtor and debtor-in-possession, Ya-Chuan Victor Lee (the "Debtor"), commenced this voluntary chapter 11 case on April 3, 2019. The Debtor possesses ownership interests in two auto repair businesses—one of these businesses is Advanced Complete Auto Works ("ACAW"). The Debtor asserts that he is a 50% shareholder of ACAW, and that the remaining 50% is owned by Wilson Cheung ("Cheung"). According to the Debtor, Cheung has failed to contact him since December 30, 2019, despite numerous efforts to discuss the future of ACAW. ACAW ceased operations on or about December 30, 2019, given the business's negative cash flow. Declaration of Ya-Chuan Lee (the "Lee Decl."), ¶ 2.

**The Proposed Sale**

On April 16, 2020, the Debtor filed the Sale Motion. The Sale Motion seeks authorization to sell certain auto repair equipment (the "Equipment") used in ACAW's operations, as-is, where-is, and free and clear of any liens, claims, and encumbrances pursuant to § 363(b) and (f). The Sale Motion contemplates that Linyang Zhao (the "Proposed Buyer") will purchase the Equipment for \$30,000, subject to court approval and any qualified overbids received. Lee Decl., ¶ 6. The Debtor asserts that selling the Equipment is in the best interest of the estate because the sale will generate administrable assets, while enabling the Debtor to circumvent the Equipment's ongoing maintenance costs and storage fees.

Moreover, while the Debtor claims that he is unaware of any liens encumbering the Equipment, he recognizes Cheung's potential claim against sale proceeds arising from his capital contribution to ACAW. In anticipation of any equitable claims that Cheung may assert, the Debtor proposes to set aside half of any sale proceeds in trust (the "Reserved Proceeds") until he has ascertained what amount, if any, is payable to Cheung [Note 2]. As such, the Debtor argues that the Equipment may be sold free and clear of any liens under § 363(f).

In summary, the Debtor requests that the Court (a) authorize the sale of the Equipment to the Proposed Buyer free and clear of all liens, claims, and interests; (b) approve proposed sale procedures; (c) determine that the Proposed Buyer is entitled to a good-faith finding under § 363(m); (d) approve the distribution of up to 50% of net proceeds to Cheung, to satisfy any amounts owed to him on account of his equitable interest against the Equipment; and (e) authorize Debtor to hold the balance of proceeds for the benefit of the estate in Debtor's debtor-in-possession bank account.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Hearing Room 1568

11:00 AM

CONT... Ya-Chuan Victor Lee

Chapter 11

As of the preparation of this tentative ruling, no opposition is on file.

## II. Findings and Conclusions

### The Proposed Sale is Approved

Section 363(b) of the Bankruptcy Code permits a debtor-in-possession to sell estate property outside the ordinary course of business, subject to court approval. The debtor-in-possession must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19–20 (B.A.P. 9th Cir. 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19–20.

Here, the Debtor has articulated a sufficient business justification for the sale. The Debtor believes the proposed sale of the Equipment is made in good faith and in the estate's best interest because the sale will generate funds to contribute to Debtor's outstanding administrative costs and unsecured claims. The sale will also enable the Debtor to offload the Equipment without the added financial burden resulting from its removal and storage. The Debtor maintains that the sale price is reasonable considering that ACAW and the Equipment have been actively marketed since the start of the year. Additionally, the sale is subject to overbids, which will further ensure that the Equipment is sold for the highest and best price.

The Court also finds that the Debtor has met the conditions for a sale of the Equipment free and clear of all liens. Section 363(f) permits a sale of property "free and clear of any interest in such property of an entity other than the estate" if any one of the following conditions is met:

- (1) applicable nonbankruptcy law permits the 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.

11 U.S.C. § 363(f).

**United States Bankruptcy Court  
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Los Angeles  
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**CONT... Ya-Chuan Victor Lee**

**Chapter 11**

In this case, other than possibly Cheung, who would be paid directly through the Reserved Proceeds, the Debtor does not believe that there are any liens or encumbrances on the Equipment. Therefore, the Court finds that the sale may proceed free and clear of all liens, claims, and encumbrances pursuant to § 363(f)(2) because all interested parties received notice of the Sale Motion, did not oppose the motion, and are deemed to have consented to the sale.

The Court has reviewed the Debtor's declaration and the declaration submitted on behalf of the Proposed Buyer and finds that the buyer is a good faith purchaser within the meaning of § 363(m). Accordingly, if the Proposed Buyer is the successful bidder at the auction, the Court will approve an order making a § 363(m) finding. In the event that an overbidder prevails at the sale hearing, the Court will take over-the-phone testimony from such overbidder to determine whether §363(m) protections are warranted. Qualified overbidders may also submit a declaration under penalty of perjury prior to the Sale Motion hearing that will permit the Court to make a § 363(m) finding. If a prevailing overbidder does not appear telephonically or submit a timely declaration, the Court will not make a § 363(m) finding.

**Auction Procedures**

In the event that any qualified overbidders make a telephonic appearance, the Court will conduct an auction in accordance with the procedures set forth in the Sale Motion. The initial overbid will be at \$32,000, with subsequent overbids to be in increments of \$1,000. The overbid increment is subject to adjustment by the Court to facilitate bidding. The Court will announce each bid level. To remain in the auction, bidders must participate at all bid levels. That is, parties who do not bid in a round cannot later change their minds and re-enter the auction. Parties may make a bid higher than that announced by the Court by clearly stating their bid. Any prevailing overbidder shall (a) be bound to the overbid procedures stated in the Sale Motion; and (b) become buyer under the same terms and conditions provided in bill of sale, except for the purchase price. *See* Sale Motion, Ex. A [Bill of Sale]. A prevailing overbidder must make adequate arrangements with the Debtor's counsel prior to or at the hearing.

Finally, the Court deems the absence of any opposition as consent to the granting of the Sale Motion pursuant to Local Bankruptcy Rule 9013-1(h).

**III. Conclusion**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, May 20, 2020**

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11:00 AM

**CONT... Ya-Chuan Victor Lee**

**Chapter 11**

For the reasons set forth above, the Sale Motion is GRANTED. The Court will conduct the auction in accordance with the procedures set forth above.

Within seven days of the hearing, the Debtor shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** An inventory list of the Equipment is included in the bill of sale, which is attached as Exhibit A of the Sale Motion.

**Note 2:** The Debtor claims to have a 50% interest in ACAW, worth approximately \$65,000. *See* Doc. No. 1. Although Cheung also possesses a 50% interest in ACAW, the dollar value of his interest is unclear as Debtor claims to have invested significantly more than Cheung in said business. *See* Lee Decl., ¶ 9. Cheung did not oppose the Sale Motion, nor has he filed any proofs of claim in this case.

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

Ya-Chuan Victor Lee

Represented By  
Marcus G Tiggs

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, May 20, 2020

Hearing Room 1568

11:00 AM

2:19-16549 Lynn M. Vargas

Chapter 11

#101.00 HearingRE: [111] Application for Compensation for Michael Jay Berger, Debtor's Attorney, Period: 1/1/2020 to 4/12/2020, Fee: \$28,251.50, Expenses: \$407.71.

Docket 111

**Tentative Ruling:**

5/19/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the Court approves the application and awards the fees and expenses set forth below.

**Fees:** \$28,251.50 [Doc. No. 112]

**Expenses:** \$407.71 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Lynn M. Vargas

Represented By  
Hatty K Yip



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 20, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Lynn M. Vargas**

Michael Jay Berger

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, May 20, 2020

Hearing Room 1568

11:00 AM

2:19-16549 Lynn M. Vargas

Chapter 11

#102.00 HearingRE: [113] Application for Compensation for Jennifer M Liu, Accountant, Period: to, Fee: \$8,497.50, Expenses: \$120.00.

Docket 113

**Tentative Ruling:**

5/19/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the Court approves the application and awards the fees and expenses set forth below.

**Fees:** \$8,497.50 [Doc. No. 113]

**Expenses:** \$120.00 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Lynn M. Vargas

Represented By  
Hatty K Yip

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, May 20, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Lynn M. Vargas**

Michael Jay Berger

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01404 Elissa D. Miller, solely in her capacity as chapte v. BMC Stock Holdings,

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01404. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against BMC Stock Holdings, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-28-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-24-20 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

BMC Stock Holdings, Inc., a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01405 Elissa D. Miller, solely in her capacity as chapte v. American Express

**#2.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01405. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against American Express Company, a New York Corporation, American Express Travel Related Services Company, Inc., a New York Corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

10-28-19; 2-24-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 3-31-20**

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01409 Elissa D. Miller, solely in her capacity as chapte v. Hankey Capital, LLC, a

**#3.00** Trial Date Set

RE: [1] Adversary case 2:18-ap-01409. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Hankey Capital, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

fr: 10-28-19

Docket 1

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Hankey Capital, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01410 Elissa D. Miller, solely in her capacity as chapte v. Anchor Loans, LP, a

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01410. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Anchor Loans, LP, a Delaware limited partnership, Anchor Fund, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

fr: 10-28-19

Docket 1

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Anchor Loans, LP, a Delaware

Pro Se

Anchor Fund, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01225 Leslie v. Slauson Oil

**#5.00** Trial Date SetRE: [1] Adversary case 2:19-ap-01225. Complaint by Sam S. Leslie against Slauson Oil. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Simons, Larry)

Docket 1

**Party Information**

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

Slauson Oil

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01226 Leslie v. CAPITAL ONE, N.A.

**#6.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01226. Complaint by Sam S Leslie against CAPITAL ONE, N.A.. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Simons, Larry)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-30-20**

**Party Information**

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

CAPITAL ONE, N.A.

Pro Se

**Plaintiff(s):**

Sam S Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01227 Leslie v. Bank Of America N.A.

**#7.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01227. Complaint by Sam S Leslie against Bank Of America N.A.. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Simons, Larry)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-30-20**

**Party Information**

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

Bank Of America N.A.

Pro Se

**Plaintiff(s):**

Sam S Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-11868 Maria Guadalupe Ortiz Santos**

**Chapter 7**

Adv#: 2:18-01403 Yoo v. Gutierrez

**#8.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01403. Complaint by Timothy J. Yoo against Eduardo Infanzon Gutierrez. (Charge To Estate). Complaint to Avoid and Recover Fraudulent Transfer [11 U.S.C. §§ 542, 544, 550 and California Civil Code § 3439, et seq.] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Burstein, Richard)

FR. 9-24-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 2-19-20**

**Party Information**

**Debtor(s):**

Maria Guadalupe Ortiz Santos

Represented By  
Peter M Lively

**Defendant(s):**

Eduardo Infanzon Gutierrez

Pro Se

**Plaintiff(s):**

Timothy J. Yoo

Represented By  
Richard Burstein

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Richard Burstein

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

Adv#: 2:18-01260 Amin v. Emein

**#9.00** Trial Date Set RE: [21] Amended Complaint 2nd Amended by Michael N Berke on behalf of Joseph Amin against Kami Emein. (Berke, Michael)

fr: 7-29-19, 9-30-19; 1-27-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-24-20 AT 9:00 A.M.**

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

**Debtor(s):**

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Defendant(s):**

Kami Emein

Represented By  
TJ Fox

**Plaintiff(s):**

Joseph Amin

Represented By  
Michael N Berke

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01256 Ehrenberg, Chapter 7 Trustee v. Hsu

**#10.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01256. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lillian Yu-Li Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT 4-17-20**

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lillian Yu-Li Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01257 Ehrenberg, Chapter 7 Trustee v. Hsu

**#11.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01257. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lung Hsiang Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-2-20**

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lung Hsiang Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-24769 Paul A. Carrasco**

**Chapter 7**

Adv#: 2:19-01085      MERCHANTS ACQUISITION GROUP LLC v. Carrasco

**#12.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01085. Complaint by MERCHANTS ACQUISITION GROUP LLC against Paul Carrasco. false pretenses, false representation, actual fraud)) (Snyder, Richard)

fr: 2-24-20

Docket      1

**\*\*\* VACATED \*\*\* REASON: JUDGEMENT ENTERED 1-9-20**

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

**Debtor(s):**

Paul A. Carrasco

Represented By  
Raymond H. Aver

**Defendant(s):**

Paul Carrasco

Pro Se

**Plaintiff(s):**

MERCHANTS ACQUISITION

Represented By  
Richard W Snyder

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#13.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01137. Complaint by G-Sight Solutions, LLC against Ryan James McMillin, G-Sight Solutions, Inc., a California Corporation. 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)),(14 (Recovery of money/property - other)) (Zshornack, Errol)

FR. 4-27-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-24-20 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Pro Se

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Pro Se

G-Sight Solutions, LLC, a California

Pro Se

**Trustee(s):**

Heide Kurtz (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#14.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

fr. 2-24-20

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-27-20 AT 9:00 AM.

**Party Information**

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-13844 Mauro Enrique Castellon**

**Chapter 7**

Adv#: 2:19-01204 Security First Bank v. Castellon

**#15.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01204. Complaint by THE DUNNING LAW FIRM APC SECURITY FIRST BANK against Mauro Enrique Castellon. false pretenses, false representation, actual fraud)) (MacLeod, James)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 10-24-19**

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

**Debtor(s):**

Mauro Enrique Castellon

Represented By  
James Geoffrey Beirne

**Defendant(s):**

Mauro Enrique Castellon

Pro Se

**Plaintiff(s):**

Security First Bank

Represented By  
James MacLeod

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-14029 Oran Kemp, Jr.**

**Chapter 7**

Adv#: 2:19-01223 Clady v. Kemp, Jr.

**#16.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01223. Complaint by Ryan Clady against Oran Kemp Jr.. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Ghanooni, Eliza)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-12-19**

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

**Debtor(s):**

Oran Kemp Jr.

Represented By  
Sean S Vahdat

**Defendant(s):**

Oran Kemp Jr.

Pro Se

**Plaintiff(s):**

Ryan Clady

Represented By  
Eliza Ghanooni

**Trustee(s):**

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-14464 Kevin Garnier**

**Chapter 7**

Adv#: 2:19-01233 Blue v. Garnier

**#17.00** Trial

RE: [1] Adversary case 2:19-ap-01233. Complaint by Rolando Blue against Kevin Garnier. 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)) (Kaplan, Jerome)

Docket 1

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

**Debtor(s):**

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Rolando Blue

Represented By  
David S Kadin  
Jerome Kaplan

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-14464 Kevin Garnier**

**Chapter 7**

Adv#: 2:19-01234 Li v. Garnier

**#18.00 TRIAL RE: [1] Adversary case 2:19-ap-01234. Complaint by Qi Li against Kevin Garnier. false pretenses, false representation, actual fraud)) (Wolk, Sarah)**

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 AM.**

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

**Debtor(s):**

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Qi Li

Represented By  
Sarah R Wolk  
Zachary Levine

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-15098 Phachira Ketkaew**

**Chapter 7**

Adv#: 2:19-01252 Jittanoon et al v. Ketkaew

**#19.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01252. Complaint by Peera Jittanoon, Preda Jittanoon against Phachira Ketkaew. 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)) (Landsberg, Ian)

FR.

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-28-20 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

Phachira Ketkaew

Represented By  
Jarintorn Tanatchasai

**Defendant(s):**

Phachira Ketkaew

Pro Se

**Plaintiff(s):**

Peera Jittanoon

Represented By  
Ian Landsberg

Preda Jittanoon

Represented By  
Ian Landsberg

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-16669 Parkridge Private School, Inc.**

**Chapter 7**

Adv#: 2:19-01213 Santos et al v. Parkridge Private School, Inc.

**#20.00** Trial Date SetRE: [1] Adversary case 2:19-ap-01213. Complaint by Efrain Santos, Evelyn Lambert against Parkridge Private School, Inc.. Eric)

Docket 1

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

**Debtor(s):**

Parkridge Private School, Inc.

Represented By  
Robert M Aronson

**Defendant(s):**

Parkridge Private School, Inc.

Pro Se

**Plaintiff(s):**

Efrain Santos

Represented By  
Eric C Morris

Evelyn Lambert

Represented By  
Eric C Morris

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#21.00 Trial Date Set**

RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 1-27-20; 2-24-20; 4-27-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-28-20 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 25, 2020**

**Hearing Room 1568**

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9:00 AM

CONT... Verity Health System of California, Inc.

**Chapter 11**

Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01404 Elissa D. Miller, solely in her capacity as chapte v. BMC Stock Holdings,

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01404. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against BMC Stock Holdings, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-28-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-28-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

BMC Stock Holdings, Inc., a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01405 Elissa D. Miller, solely in her capacity as chapte v. American Express

**#2.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01405. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against American Express Company, a New York Corporation, American Express Travel Related Services Company, Inc., a New York Corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

10-28-19; 2-24-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 3-31-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**QUIGG LA11, LLC**

Asa S Hami  
Jessica Vogel

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01409 Elissa D. Miller, solely in her capacity as chapte v. Hankey Capital, LLC, a

**#3.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01409. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Hankey Capital, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

fr: 10-28-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Hankey Capital, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**QUIGG LA11, LLC**

Jessica Vogel

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, May 26, 2020

Hearing Room 1568

9:00 AM

2:16-25740 QUIGG LA11, LLC

Chapter 7

Adv#: 2:18-01410 Elissa D. Miller, solely in her capacity as chapte v. Anchor Loans, LP, a

**#4.00** Trial Date Set

RE: [1] Adversary case 2:18-ap-01410. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Anchor Loans, LP, a Delaware limited partnership, Anchor Fund, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

fr: 10-28-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 5-4-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Anchor Loans, LP, a Delaware

Pro Se

Anchor Fund, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**QUIGG LA11, LLC**

Jessica Vogel

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01225 Leslie v. Slauson Oil

**#5.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01225. Complaint by Sam S. Leslie against Slauson Oil. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Simons, Larry)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 5-1-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

Slauson Oil

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01226 Leslie v. CAPITAL ONE, N.A.

**#6.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01226. Complaint by Sam S Leslie against CAPITAL ONE, N.A.. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Simons, Larry)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-30-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

CAPITAL ONE, N.A.

Pro Se

**Plaintiff(s):**

Sam S Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01227 Leslie v. Bank Of America N.A.

**#7.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01227. Complaint by Sam S Leslie against Bank Of America N.A.. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Simons, Larry)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-30-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

Bank Of America N.A.

Pro Se

**Plaintiff(s):**

Sam S Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-11868 Maria Guadalupe Ortiz Santos**

**Chapter 7**

Adv#: 2:18-01403 Yoo v. Gutierrez

**#8.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01403. Complaint by Timothy J. Yoo against Eduardo Infanzon Gutierrez. (Charge To Estate). Complaint to Avoid and Recover Fraudulent Transfer [11 U.S.C. §§ 542, 544, 550 and California Civil Code § 3439, et seq.] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Burstein, Richard)

FR. 9-24-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 2-19-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Maria Guadalupe Ortiz Santos

Represented By  
Peter M Lively

**Defendant(s):**

Eduardo Infanzon Gutierrez

Pro Se

**Plaintiff(s):**

Timothy J. Yoo

Represented By  
Richard Burstein

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Richard Burstein

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

Adv#: 2:18-01260 Amin v. Emein

**#9.00** Trial Date Set RE: [21] Amended Complaint 2nd Amended by Michael N Berke on behalf of Joseph Amin against Kami Emein. (Berke, Michael)

fr: 7-29-19, 9-30-19; 1-27-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-24-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Defendant(s):**

Kami Emein

Represented By  
TJ Fox

**Plaintiff(s):**

Joseph Amin

Represented By  
Michael N Berke

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01256 Ehrenberg, Chapter 7 Trustee v. Hsu

**#10.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01256. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lillian Yu-Li Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-10-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lillian Yu-Li Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01257 Ehrenberg, Chapter 7 Trustee v. Hsu

**#11.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01257. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lung Hsiang Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-2-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lung Hsiang Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-24769 Paul A. Carrasco**

**Chapter 7**

Adv#: 2:19-01085      MERCHANTS ACQUISITION GROUP LLC v. Carrasco

**#12.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01085. Complaint by MERCHANTS ACQUISITION GROUP LLC against Paul Carrasco. false pretenses, false representation, actual fraud)) (Snyder, Richard)

fr: 2-24-20

Docket      1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT ENTERED 1-9-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Paul A. Carrasco

Represented By  
Raymond H. Aver

**Defendant(s):**

Paul Carrasco

Pro Se

**Plaintiff(s):**

MERCHANTS ACQUISITION

Represented By  
Richard W Snyder

**Trustee(s):**

David M Goodrich (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#13.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01137. Complaint by G-Sight Solutions, LLC against Ryan James McMillin, G-Sight Solutions, Inc., a California Corporation. 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)),(14 (Recovery of money/property - other)) (Zshornack, Errol)

FR. 4-27-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Pro Se

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Pro Se

G-Sight Solutions, LLC, a California

Pro Se

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#14.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

fr. 2-24-20

Docket 1

\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 6-16-20 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**John F Gallardo**

Brandon J Iskander

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-13844 Mauro Enrique Castellon**

**Chapter 7**

Adv#: 2:19-01204 Security First Bank v. Castellon

**#15.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01204. Complaint by THE DUNNING LAW FIRM APC SECURITY FIRST BANK against Mauro Enrique Castellon. false pretenses, false representation, actual fraud)) (MacLeod, James)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT 12-5-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Mauro Enrique Castellon

Represented By  
James Geoffrey Beirne

**Defendant(s):**

Mauro Enrique Castellon

Pro Se

**Plaintiff(s):**

Security First Bank

Represented By  
James MacLeod

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-14029 Oran Kemp, Jr.**

**Chapter 7**

Adv#: 2:19-01223 Clady v. Kemp, Jr.

**#16.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01223. Complaint by Ryan Clady against Oran Kemp Jr.. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Ghanooni, Eliza)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-10-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Oran Kemp Jr.

Represented By  
Sean S Vahdat

**Defendant(s):**

Oran Kemp Jr.

Pro Se

**Plaintiff(s):**

Ryan Clady

Represented By  
Eliza Ghanooni

**Trustee(s):**

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-14464 Kevin Garnier**

**Chapter 7**

Adv#: 2:19-01233 Blue v. Garnier

**#17.00** Trial

RE: [1] Adversary case 2:19-ap-01233. Complaint by Rolando Blue against Kevin Garnier. 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)) (Kaplan, Jerome)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-24-2020 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Rolando Blue

Represented By  
David S Kadin  
Jerome Kaplan

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-14464 Kevin Garnier**

**Chapter 7**

Adv#: 2:19-01234 Li v. Garnier

**#18.00 TRIAL RE: [1] Adversary case 2:19-ap-01234. Complaint by Qi Li against Kevin Garnier. false pretenses, false representation, actual fraud)) (Wolk, Sarah)**

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Qi Li

Represented By  
Sarah R Wolk  
Zachary Levine

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-15098 Phachira Ketkaew**

**Chapter 7**

Adv#: 2:19-01252 Jittanoon et al v. Ketkaew

**#19.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01252. Complaint by Peera Jittanoon, Preda Jittanoon against Phachira Ketkaew. 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)) (Landsberg, Ian)

FR.

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-28-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Phachira Ketkaew

Represented By  
Jarintorn Tanatchasai

**Defendant(s):**

Phachira Ketkaew

Pro Se

**Plaintiff(s):**

Peera Jittanoon

Represented By  
Ian Landsberg

Preda Jittanoon

Represented By  
Ian Landsberg

**Trustee(s):**

David M Goodrich (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-16669 Parkridge Private School, Inc.**

**Chapter 7**

Adv#: 2:19-01213 Santos et al v. Parkridge Private School, Inc.

**#20.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01213. Complaint by Efrain Santos, Evelyn Lambert against Parkridge Private School, Inc.. Eric)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-4-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Parkridge Private School, Inc.

Represented By  
Robert M Aronson

**Defendant(s):**

Parkridge Private School, Inc.

Pro Se

**Plaintiff(s):**

Efrain Santos

Represented By  
Eric C Morris

Evelyn Lambert

Represented By  
Eric C Morris

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#21.00 Trial Date Set**

RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 1-27-20; 2-24-20; 4-27-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-25-2021 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10657 David Murphy and Amy Murphy**

**Chapter 7**

**#100.00** HearingRE: [27] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 19191 Cochise Ct, Apple Valley, CA 92307 .

Docket 27

**Tentative Ruling:**

5/21/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. §§ 362(d)(2) and (d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Since a chapter 7 case does not contemplate reorganization, the sole issue before the Court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the Debtor has equity in the property. *See, e.g., Martens v. Countrywide Home Loans (In re Martens)*, 331 B.R. 395, 398 (B.A.P. 8th Cir. 2005); *Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896, 897 (B.A.P. 9th Cir. 1981).

The subject property has a value of \$ 415,000 (Exhibit 4) and is encumbered by a perfected deed of trust in favor of the Movant (Exhibit 3). The liens against the property

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**CONT... David Murphy and Amy Murphy Chapter 7**

and the expected costs of sale total \$445,709.98. *See* Motion at 8-9. The Court finds there is no equity and there is no evidence that the trustee can administer the subject real property for the benefit of creditors. For the reasons set forth above, the Court further determines that cause exists to grant Movant relief from stay under 11 U.S.C. § 362(d) (1).

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

David Murphy

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Amy Murphy

Represented By  
Julie J Villalobos

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**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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**2:20-12922 Victor G Johnson**

**Chapter 7**

**#101.00** HearingRE: [13] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Honda Accord, VIN: 1HGC V1F3 8KA0 67126 .

Docket 13

**Tentative Ruling:**

5/21/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Victor G Johnson

Pro Se

**Trustee(s):**

Sam S Leslie (TR)

Pro Se



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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#1.00 Hearing re [4708] Debtors' Ex-Parte Motion For An Order Authorizing The Debtors To Disclose Bids For The Acquisition Of St. Francis Medical Center Subject To Confidentiality Restrictions

Docket 0

**Tentative Ruling:**

5/26/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Debtors' *Ex Parte* Motion for an Order Authorizing the Debtors to Disclose to the California Attorney General Bids for the Acquisition of Assets Related to St. Francis Medical Center Subject to Confidentiality Restrictions [Doc. No. 4708] (the "Motion")
- 2) Objection of California Attorney General to [the Motion] [Doc. No. 4718]
- 3) Response of UMB Bank, N.A. and Wells Fargo Bank, N.A. to Objection of California Attorney General to [the Motion] [Doc. No. 4720]
- 4) Official Committee of Unsecured Creditors' Response to Objection of California Attorney General to [the Motion] [Doc. No. 4723]
- 5) Order Setting Hearing on [the Motion] [Doc. No. 4725]
- 6) Supplemental Objection of California Attorney General to [the Motion] [Doc. No. 4773]
- 7) Debtors' Reply in Support of [the Motion] [Doc. No. 4780]

**I. Facts and Summary of Pleadings**

**A. Introduction**

Debtors move for entry of an order authorizing them to submit non-qualifying bids

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for the purchase of St. Francis Medical Center ("St. Francis") to the California Attorney General (the "Attorney General") subject to confidentiality restrictions. The Official Committee of Unsecured Creditors (the "Committee"), UMB Bank, N.A. ("UMB"), and Wells Fargo Bank, N.A. ("Wells Fargo") support the Motion. The Attorney General opposes the Motion.

**B. Facts and Procedural Background**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. As of the Petition Date, the Debtors operated six acute care hospitals (the "Hospitals").

On February 26, 2020, the Court enter an order establishing bidding procedures (the "Bidding Procedures") governing the auction of St. Francis Medical Center ("St. Francis"). *See* Doc. No. 4165 (the "Bidding Procedures Order"). Under the Bidding Procedures, Potential Bidders [**Note 1**] were required to submit their Bids to certain "Bid Deadline Recipients," which included the Debtors, their prepetition secured creditors, and the Official Committee of Unsecured Creditors (the "Committee"). Bidding Procedures at ¶ 8. The Bid Deadline Recipients then were required to determine whether any of the Bids constituted Qualified Bids. *Id.* at ¶ 11. An Auction of St. Francis would go forward only if more than one Qualified Bid was received. *Id.*

In addition to the Bid submitted by the Stalking Horse Bidder Prime Healthcare Services, Inc. ("Prime"), three entities submitted Bids. No Auction was conducted because the Bid Deadline Recipients determined that none of the Bids were Qualified Bids (the three non-qualifying bids, the "Non-Qualifying Bids"). As a result, the Non-Qualifying Bids were not disclosed to any parties other than the Bid Deadline Recipients. [**Note 2**]

On April 9, 2020, the Court entered an order authorizing the Debtors to sell St. Francis to Prime. *See* Doc. No. 4511 (the "Sale Order"). The Debtors have submitted the sale to the California Attorney General (the "Attorney General") for review pursuant to Cal. Corp. Code § 5914 *et seq.*

In connection with his review of the sale, the Attorney General has requested that the Debtors provide to him the Non-Qualifying Bids. On May 13, 2020, the Debtors filed the instant *ex parte* Motion seeking authorization to submit the Non-Qualifying Bids to the Attorney General under seal. The Debtors assert that the Non-Qualifying Bids contain confidential commercial information subject to protection, and that disclosure of the bids would harm the sales process by chilling bidding.

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UMB and Wells Fargo (collectively, the "Banks") and the Committee filed briefing in support of the Motion. The Banks argue that the Bidding Procedures were negotiated very carefully to insure that only Qualified Bids would be disclosed at the Auction. They assert that disclosure of the Non-Qualifying Bids would be ill advised until after the sale has been closed and money has been paid to the Debtors' estates. The Committee contends that the Non-Qualifying Bids were not true alternatives to Prime's bid, and that accordingly nothing would be gained by public disclosure of the Non-Qualifying Bids.

On May 15, 2020, the Attorney General filed an opposition to the Motion. The Attorney General asserts that under 11 Cal. Code Regs. § 999.5(c)(3), all information submitted in connection with the review of the sale "shall be treated as a public record unless such information is a trade secret or unless the public interest in maintaining the confidentiality of that information clearly outweighs the public interest in disclosure." He maintains that the Debtors have not met this standard because the Bidding Procedures do not contain an express provision stating that the Non-Qualifying Bids will remain confidential. The Attorney General further contends that true reason for the Motion is that the Debtors have entered into non-disclosure agreements with the entities that submitted the Non-Qualifying Bids and now face the possibility that the Non-Qualifying Bids may be publicly disclosed.

On May 18, 2020, the Court entered an order setting this hearing on the Motion. Doc. No. 4725 (the "Order"). The Order authorized all parties to submit additional briefing in connection with the Motion, and directed any parties submitting briefing to address the following issues:

- a) The Bidding Procedures and the APA are structured in a manner such that bids would be disclosed only if they were deemed Qualifying Bids. However, there is no express, stand-alone provision in the Bidding Procedures or APA stating that Non-Qualifying Bids would remain confidential. Did Potential Bidders submit Bids with an expectation that those Bids would remain confidential if they were not deemed Qualifying Bids? **The entities that submitted the Non-Qualifying Bids shall be served with the Motion and may submit briefs declarations with respect to this issue.**
- b) If the Non-Qualifying Bids were made public, what type of confidential commercial information would be disclosed? Would disclosure of this information disrupt the integrity of the auction process by chilling bidding at future auctions?
- c) Will maintaining the confidentiality of the Non-Qualifying Bids interfere with the Attorney General's ability discharge his obligations under Cal. Corp.

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Code § 5914 *et seq.* in connection with his review of the sale?

Order at ¶ 3.

Only the Debtors and the Attorney General submitted additional briefing in response to the Order.

**C. Summary of the Debtors' Additional Briefing**

The additional briefing submitted by the Debtors in support of the Motion may be summarized as follows:

The Bidding Procedures Order authorizes disclosure of the Bids only to the Bid Deadline Recipients. The Debtors filed the Motion because they cannot simply ignore the explicit limitations set forth in the Bidding Procedures Order, but at the same time desire to comply with the Attorney General's request. The Bidding Procedures identify express and definite parties entitled to receive copies of the Bids under particular circumstances. The Debtors' intentional failure to comply with these provisions without leave of this Court would constitute a violation of the Bidding Procedures Order.

The Attorney General incorrectly surmises that the Motion is motivated by the Debtors' separate obligations under nondisclosure agreements. It is not. Rather, the Debtors filed the Motion because they take seriously their obligation to respect orders of the Court.

The Bidding Procedures were approved in advance of the Sale to insure that all parties clearly understood the requirements of participation and to avoid *post facto* disputes among bidders concerning the conduct of the Sale. The Bidding Procedures dictated the Debtors' decision-making in connection with every aspect of the Sale process. Bidders provided Bids with an expectation that those Bids would remain confidential if they were not deemed Qualified Bids. For example, on May 22, 2020, the Debtors received an e-mail from a party who had submitted an indication of interest for the purchase of St. Francis, in which the party objected to any disclosure to the Attorney General of the terms of its indication of interest.

Disclosure of the Non-Qualifying Bids would inject uncertainty into the now-final Sale process by allowing any party to re-evaluate whether the Debtors and the Consultation Parties acted appropriately in deciding not to consider the Non-Qualifying Bids. Endless questions, re-negotiations, and other issues would result from such disclosure.

The Non-Qualifying Bids contain information related to the Bidder's financing sources, acquisition structure and strategy, proposed treatment of collective bargaining

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agreements, purchase price, and Attorney General conditions that the Bidders were willing to accept. The Bidders were prepared to disclose the content of their Bids *only if* the Bids were deemed Qualifying Bids and the Bidders had an opportunity to participate in the Auction.

Since the filing of the Motion, the Attorney General has insinuated that he may treat the Debtors' application (submitted on April 16, 2020) as incomplete until the Debtors provide access to the Non-Qualifying Bids. This would delay the commencement of the Attorney General's 90-day review process and would impede the Debtors' efforts to close the Sale and confirm a plan of liquidation.

Although the Motion did not request that the Court rule on the issue, the Court should find that the Debtors' application was complete when submitted on April 16, 2020. First, 11 Cal. Code Regs. § 999.5(d)(11)(E) requires disclosure only of materials that are "available." The Non-Qualifying Bids are not "available" because disclosure of such Bids is restricted by the Bidding Procedures Order. Second, 11 Cal. Code Regs. § 999.5(d)(11)(E) requires disclosure of "[c]opies of each Proposal received by the applicant from any potential transferee suggesting the terms of a potential transfer of applicant's health facilities." The Non-Qualifying Bidders are not "potential transferees" within the meaning of 11 Cal. Code Regs. § 999.5(d)(11)(E) because the Bidding Procedures Order precluded the Debtors from considering a Non-Qualifying Bid.

**D. Summary of the Attorney General's Additional Briefing**

The additional briefing submitted by the Attorney General in opposition to the Motion may be summarized as follows:

Potential Bidders did not submit Bids with an expectations that those Bids would remain confidential if they were not deemed Qualifying Bids. Every party involved knew or should have known that Attorney General review of the Sale would be required, and that all bids would have to be disclosed to the Attorney General and made public in connection with such review. In addition, Potential Bidders would not expect or want their bids to remain confidential. Potential Bidders presumably wanted to submit a winning bid, which at a minimum would mean that the Bid had to be selected as a Qualifying Bid.

Nothing in the APA or Bidding Procedures states that a Bid is to be kept confidential if not deemed a Qualifying Bid. Section 6.3 of the APA provides that the "Sellers shall immediately upon determination that a bid is a Qualified Bid, simultaneously provide to all Qualified Bidders copies of all other Qualified Bids." This imposes an affirmative duty to disclose all Qualifying Bids to all Qualified Bidders, but does not support the

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conclusion that a Non-Qualifying Bid is to be kept confidential. It would be improper to draw an inference of confidentiality from this provision when such an inference would contradict the express requirements of California law that all bids are presumptively part of the public record.

Most important, the Sale Order preserves the Attorney General's review procedures: "Notwithstanding any provision to the contrary in the APA or the Sale Order, nothing in the APA or this Sale Order shall limit or be construed as a waiver of the Attorney General's statutory or regulatory authority or other rights or defenses." Sale Order at ¶ 38.

Maintaining the confidentiality of the Non-Qualifying Bids will interfere with the Attorney General's ability to discharge his obligations under Cal. Corp. Code § 5914 *et seq.* in connection with his review of the Sale. Title 11 Cal. Code Regs. § 999.5(c) requires that all bids be made public unless the bid "is a trade secret or unless the public interest in maintaining the confidentiality of that information clearly outweighs the public interest in disclosure."

The briefing submitted by the Committee and the Banks suggest that these parties' primary concern is that disclosure of the Non-Qualifying Bids would cause Prime to suffer "buyer's remorse" and would interfere with the closing of the Sale. This implies that no harm would come from disclosure of the Non-Qualifying Bids after the Sale to Prime has closed. However, the Motion requests that the Non-Qualifying Bids be kept confidential in perpetuity. Clarification as to this issue would be helpful. In determining whether confidentiality is warranted under 11 Cal. Code Regs. § 999.5(c), the Attorney General could decide that the Non-Qualifying Bids must remain confidential until the Sale has closed, but can be made public thereafter as the relative "public interests" change.

## **II. Findings and Conclusions**

### **A. The Motion is Granted**

Neither the Bidding Procedures Order or the APA contain an express, stand-alone provision stating that Non-Qualifying Bids would not be publicly disclosed. However, the Bidding Procedures Order is structured in a manner such that a Bid would be disclosed to parties other than the Bid Deadline Recipients only if the Bid was deemed a Qualifying Bid that triggered the obligation to conduct an Auction.

The Court finds that Potential Bidders were entitled to presume that their Bids would remain confidential unless they were deemed Qualifying Bids. Entities participating in an Auction of this size are sophisticated parties who would have carefully considered all the provisions of the Bidding Procedures Order. In weighing the pros and cons of submitting

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a Potential Bid, it would have been reasonable for the Potential Bidders to have concluded that, consistent with the structure of the Bidding Procedures Order, their Bid would become public record only if the Bid was deemed a Qualifying Bid that granted the Potential Bidder a seat at the Auction. In other words, Potential Bidders were willing to see their Bids publicly disclosed, but only in exchange for being allowed to participate in the Auction. The Court declines to disrupt this reasonable expectation of confidentiality by construing the Bidding Procedures Order as permitting the Debtors to make public the Non-Qualifying Bids.

The absence of an express, stand-alone provisions providing for the confidentiality of Non-Qualifying Bids does not alter this finding. "Under the maxim of *expressio unius est exclusio alterius*, there is a presumption 'that when a statute designates certain persons, things, or manners of operation, all omissions should be understood as exclusions.'" *Copeland v. Ryan*, 852 F.3d 900, 907 (9th Cir. 2017) (internal citation omitted). Applying this principle to the Bidding Procedures Order, the Court finds that the inclusion of the Bid Deadline Recipients as the only recipients of the Non-Qualifying Bids means that no other parties were entitled to receive the Non-Qualifying Bids.

The Attorney General asserts that Potential Bidders could not reasonably have expected that their Non-Qualifying Bids would remain confidential. He points to provisions of California law requiring public disclosure of all bids to acquire healthcare assets absent the requisite showing under 11 Cal. Code Regs. § 999.5(c). The Attorney General maintains that Potential Bidders should have been aware of the relevant regulations and therefore should have known that even Non-Qualifying Bids would be subject to public disclosure.

There are two problems with the Attorney General's argument. First, a careful reading of the relevant California regulations does not support the conclusion that the Non-Qualifying Bids are presumptively public record. Title 11 Cal. Code Regs. § 999.5(d)(11)(E) requires the Debtors to provide the following information to the Attorney General:

Copies of each Proposal received by the applicant from any potential transferee suggesting the terms of a potential transfer of applicant's health facilities or facilities that provide similar health care, and any analysis of each such Proposal.

A "potential transferee" is defined as "any corporation or entity from which an applicant has engaged in discussions, or from which an applicant has received a written proposal, concerning a possible agreement or transaction for which written notice is required by section 999.5(a)(1) of these regulations if such discussions or written proposal occurred

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within the twelve (12) months preceding the decision to transfer assets or control to a transferee.” 11 Cal. Code Regs. § 999.5(b)(5).

The Potential Bidders who submitted Non-Qualifying Bids are not “potential transferees” within the meaning of the regulations, because the Non-Qualifying Bids did not relate to “a possible agreement or transaction” to acquire St. Francis. Under the plain language of the Bidding Procedures Order, only Qualified Bids could be considered at the Auction. Given that the Bidding Procedures contemplated that Prime, the Stalking Horse Bidder, would be deemed the Winning Bidder if no other Qualifying Bids were submitted, it would not have been possible for discussions or negotiations pertaining to a Non-Qualifying Bid to have resulted in an “agreement or transaction” for the purchase of St. Francis. Only Qualifying Bids constitute a “Proposal received by the applicant ... suggesting the terms of a potential transfer of applicant’s health facilities” within the meaning of the regulations.

Second, the Debtors are required to provide information to the Attorney General only to the extent that it is “available.” 11 Cal. Code Regs. § 999.5(d)(11)(E). The regulations do not define “available.” An undefined term is construed “in accordance with its ordinary or natural meaning.” *F.D.I.C. v. Meyer*, 510 U.S. 471, 476, 114 S. Ct. 996, 1001, 127 L. Ed. 2d 308 (1994). According to the online dictionary published by Merriam-Webster, “available” means “accessible” or “obtainable.” *See* <<https://www.merriam-webster.com/dictionary/available>> (visited May 25, 2020). Under the Bidding Procedures Order, only Bids that are deemed Qualifying Bids are subject to public disclosure. The Non-Qualifying Bids are not “available” to the Debtors for transmission to the Attorney General, where such transmission could result in the public disclosure of those bids in contravention of the Bidding Procedures Order.

Because the Bidding Procedures Order does not contemplate that the Non-Qualifying Bids will become public, the Debtors are authorized to submit the Non-Qualifying Bids to the Attorney General subject to confidentiality restrictions.

**B. By No Later than June 10, 2020, the Attorney General Shall Submit a Brief in Response to the Debtors’ Request for a Determination of the Date Upon Which the Attorney General’s Review Period Commenced Under 11 Cal. Code Regs. § 999.5(e)(1)(A)**

Title 11 Cal. Code Regs. § 999.5(e)(1)(A) provides that the Debtors’ application for approval of the Sale of St. Francis “shall be deemed received on the date when all of the information required by section 999.5(d) of these regulations has been submitted to the Attorney General.” The Debtors request that the Court find that the application was received as of April 16, 2020. The Debtors state that the Attorney General has indicated



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that he may consider the application as incomplete until the Non-Qualifying Bids have been disclosed.

The Motion did not request a determination of the date upon which the application was deemed received by the Attorney General under 11 Cal. Code Regs. § 999.5(e)(1) (A). The Attorney General be provided an opportunity to respond to this additional request for relief. *Provenz v. Miller*, 102 F.3d 1478, 1483 (9th Cir. 1996). By no later than **June 10, 2020**, the Attorney General shall file a brief in response to the Debtors' request for a determination that the Attorney General's review period commenced on April 16, 2020. The matter shall stand submitted upon receipt of the Attorney General's responsive briefing.

### **III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED**. The Debtors are authorized to submit the Non-Qualifying Bids to the Attorney General subject to confidentiality restrictions. The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

#### **Note 1**

Capitalized terms not defined herein have the meaning set forth in the Bidding Procedures Order.

#### **Note 2**

The Asset Purchase Agreement [Doc. No. 4471] (the "APA") negotiated between the Debtors and Prime provides that only Qualified Bids will be disclosed: "The Sellers shall immediately upon determination that a bid is a Qualified Bid, simultaneously provide to all Qualified Bidders copies of all other Qualified Bids." APA at § 6.3(b).

**Party Information**

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**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
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**Monday, June 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24795 Esperanza Castro**

**Chapter 7**

**#1.00** HearingRE: [19] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 9525 Pioneer Boulevard, Santa Fe Springs, California 90670 with Exhibits and Proof of Service. (Zahradka, Robert)

Docket 19

**Tentative Ruling:**

5/28/2020

For the reasons set forth above, the Motion is GRANTED IN-PART with respect to the estate's interest in the Property, and DENIED IN-PART, with respect to the Debtor. However, the Court is prepared to enter an order confirming that no stay is in effect as to the Debtor.

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for Relief From the Automatic Stay Under 11 U.S.C. § 362 (Real Property) [Doc. No. 19] (the "Motion")
2. Response to Motion Regarding the Automatic Stay [Doc. No. 23] (the "Opposition")
3. Discharge Order [Doc. No. 21]
4. As of the preparation of this tentative ruling, no reply is on file

**I. Facts and Summary of Pleadings**

Esperanza Castro (the "Debtor") filed a voluntary chapter 7 petition on December 19, 2019. On May 4, 2020, the Debtor received a chapter 7 discharge; however, the case remains open as of the time this tentative ruling was prepared. [Doc. No. 21].

Mere days before the Debtor's discharge, on May 1, 2020, creditor U.S. Bank N.A., as trustee, on behalf of the holders of the J.P. Morgan Mortgage Acquisition Corp. 2006-WMC1 Asset Backed Pass-Through Certificates, Series 2006-WMC1 ("Movant") filed a

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motion for relief from the automatic stay under 11 U.S.C § 362(d)(1) with respect to real property located at 9525 Pioneer Boulevard, Santa Fe Springs, California 90670 (the "Property") [Doc. No. 19] (the "Motion"). The evidence attached in support of the Motion indicates that the Movant has an equity cushion on its claim totaling approximately 18% of the Property's fair market value.

On May 18, 2020, the Debtor filed a timely Opposition [Doc. No. 23] contending that the Motion is moot in light of the Debtor's subsequent discharge. **[Note 1]**

As of the preparation of this tentative ruling, no reply is on file.

## **II. Findings and Conclusions**

### **The Requested Stay-Relief is Denied as Moot with respect to the Debtor**

The filing of a bankruptcy case imposes an automatic stay on virtually all creditor debt collection activities. *See* § 362(a). However, the automatic stay does not last indefinitely. In a chapter 7 case for an individual, the automatic stay terminates when a discharge is granted or denied. *See* § 362(c)(2)(C); *In re Lakhany*, 538 B.R. 555, 561 (B.A.P. 9th Cir. 2015) ("[T]he existence of a discharge means that there is no automatic stay from which relief may be granted to permit an action against the debtor.").

In this case, the discharge was granted on May 4, 2020. Upon the granting of the discharge, the automatic stay was replaced by the discharge injunction provided by § 524(a). Accordingly, the Movant's request to lift or modify the automatic stay with respect to Debtor's interest in the Property is moot because the stay ceased to exist at the time Debtor received her discharge. *See In re Rodriguez*, No. 2:18-BK-14694-MKN, 2020 WL 710563, at \*3 (B.A.P. 9th Cir. Feb. 7, 2020) ("insofar as the automatic stay bars actions against the debtor, the stay automatically expires upon the grant of a discharge.") (internal citations omitted). Although Movant's requested stay relief is unnecessary given Debtor's discharge, the Court is prepared to enter an order confirming that there is no stay in effect.

### **The Motion is Granted as to the Estate's Interest in the Property**

Property scheduled pursuant to 11 U.S.C. § 521(1) that is not administered during the case—which includes both "property of the estate" and "property of the debtor as of

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the filing of the case"—is abandoned to the debtor and deemed administered upon the closing of the case. *See In re Menk*, 241 B.R. 896, 911 (B.A.P. 9th Cir. 1999). "The formal consequences of closing the case relate primarily to the status of property and to the ability to recover property for the estate." *Id.* Accordingly, a chapter 7 trustee retains the ability to revoke discharge, as well as avoiding and recovery powers until the case is formally closed. *See id.* Because this case has not been formally closed, the estate still possesses an interest in the Property, notwithstanding Debtor's discharge.

Based on Movant's request to enforce its rights against the Property, the Court construes the Motion as seeking relief from the automatic stay not only as to the Debtor, but also as to the estate's interest in the Property. Here, the Property has a value of \$551,000 and is encumbered by a perfected deed of trust or mortgage in favor of the Movant. Considering Movant's lien and the estimated costs of sale, there is an equity cushion of \$60,074.54. Movant is protected by approximately an 11% equity cushion in the Property. The Ninth Circuit has established that an equity cushion of 20% constitutes adequate protection for a secured creditor. *Pistole v. Mellor (In re Mellor)*, 734 F.2d 1396, 1401 (9th Cir. 1984); *see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.)*, 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). Because the equity cushion in this case is less than 20%, the Court concludes that Movant's interest in the collateral is not adequately protected. This is cause to terminate the stay under § 362(d)(1). Moreover, the chapter 7 trustee was timely served with moving papers and did not assert an objection against the Motion. Hence, the Court deems the absence of his opposition as consent to the granting of the Motion pursuant to Local Bankruptcy Rule 9013-1(h).

The Court also finds it appropriate to waive the 14-day stay prescribed by FRBP 4001(a)(3). This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief requested is denied.

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED IN-PART with respect to the estate's interest in the Property, and DENIED IN-PART, with respect to the Debtor. However, the Court is prepared to enter an order confirming that no stay is in effect as to the Debtor.

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The Movant is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor failed to lodge the Opposition as a flattened or locked .pdf file, and she did not re-file the document as instructed by the clerk of the court. However, based on the notice of electronic filing, the Court notes that the Movant apparently received service of the Motion and had an opportunity to submit a timely reply. Therefore, the Debtor's failure to re-submit an appropriately formatted document was not prejudicial to the Movant. In light of the foregoing, and for the purposes of this tentative ruling, the Court will overlook the Opposition's formatting issues.

**Party Information**

**Debtor(s):**

Esperanza Castro

Represented By

Dennis E McGoldrick

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

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**2:20-11634 XLmedica, Inc.**

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**#2.00** HearingRE: [21] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: . (Drelling, Francis)

Docket 21

**Tentative Ruling:**

5/28/2020

For the reasons set forth below, the Motion is GRANTED. The Debtor's request to continue the hearing on the Motion to July 6, 2020 is DENIED.

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for Relief From the Automatic Stay Under 11 U.S.C. § 362 (Action in Nonbankruptcy Forum) [Doc. No. 21] (the "Motion")
2. Debtor's Limited Opposition to Motion for Relief from the Automatic Stay under 11 U.S.C. § 362 [Doc. No. 26] (the "Opposition")
3. Response to Debtor's Limited Opposition to EmCyte's Motion for Relief from Stay as to Debtor's Request to Continue the June 1, 2020 Hearing Contained Therein [Doc. No. 28] (the "Reply")

**I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, XLMedica, Inc. (the "Debtor"), filed a voluntary chapter 11 petition on February 13, 2020 (the "Petition Date"). The Debtor is a Florida corporation fully owned and managed by Anna Stahl ("Stahl"). On February 17, 2020, Stahl filed a voluntary chapter 13 petition, which is currently pending before the Honorable Julia W. Brand (the "Stahl Chapter 13 Case") [Note 1]. See *In re Stahl*, 2:20-bk-11739-WB. On April 28, 2020, creditor EmCyte Corp. (the "Movant") filed this request for relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) to

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proceed with the following two non-bankruptcy actions: (1) *EmCyte Corp. v. Apex Biologix, LLC, et al.*, Case No. 2:19-cv-00769 (the "Infringement Action"), pending in the United States District Court for the Middle District of Florida (the "U.S. District Court"); and (2) *EmCyte Corp. v. XLMedica, Inc., et al.*, Case No. 19-CA-5819 (the "State Court Action") (together with the Infringement Action, the "Non-Bankruptcy Actions"), pending in the 20th Judicial Circuit Court for Lee County, Florida (the "State Court").

**Background on the Non-Bankruptcy Actions**

The following is an overview of events surrounding the filing of the Non-Bankruptcy Actions as set forth in the moving papers.

On October 23, 2019, the Movant filed the Infringement Action against Stahl, the Debtor, and Apex Biologix, LLC ("Apex"), alleging, *inter alia*, that said parties organized an "unfair competition ring" against Movant by targeting and deceiving Movant's consumer base. *See* Memorandum of Points and Authorities ("MPA"), ¶ 11. According to the supporting pleadings, Stahl was an employee of Movant and Apex was formerly Movant's distributor, and both parties were terminated for cause in 2018. *Id.*, ¶¶ 8-9. More specifically, Movant alleges that the Debtor, under the control of Stahl and acting as Apex's distributor, marketed and sold products with commercial marks that were materially identical to those in Movant's products. *See* Motion, Ex. A (the Infringement Action Complaint). Movant further claims that Debtor, Stahl, and Apex violated state and federal trademark infringement and unfair competition statutes. The Infringement Action was stayed as to the Debtor and Stahl, but not as to Apex, after the outset of the instant case. *See* Motion, Ex. B.

On September 10, 2019, Movant filed the State Court Action against Stahl, the Debtor, and Lifeform Healing Research, LLC ("Lifeform") (collectively with the Infringement Action co-defendants, the "Co-Defendants") asserting claims, *inter alia*, for fraudulent inducement, breach of contract, usurpation of corporate opportunities, and misappropriation of trade secrets [Note 2]. MPA, ¶ 16. Much like the Infringement Action, the State Court Action advances that Stahl actively participated in a scheme to undermine Movant's business by selling products containing features that resembled Movant's products. *See* Motion, Ex. D (State Court Action Complaint). The Movant did not specify whether either of the Non-Bankruptcy Actions had a fixed trial date.

**The Motion**



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The Movant makes the following arguments in support of relief from stay:

- The claims arise under non-bankruptcy law and can be most expeditiously resolved in the non-bankruptcy forums;
- It is not consistent with judicial economy for Movant to litigate its claims against the Co-Defendants in four different actions: this chapter 11 case, the Stahl Chapter 13 Case; the Infringement Action, and the State Court Action;
- Movant seeks recovery mainly from third parties and asserts that the stay will remain in effect as to the enforcement of any resulting judgment against the Debtor or the estate; and
- The Debtor filed this bankruptcy case in bad faith to delay or interfere with the prosecution of the Non-Bankruptcy Actions.

In support of its request for extraordinary relief, the Movant argues that bad faith is evident based on the timing of the filing of the Debtor's and Stahl's bankruptcy petitions. The arguments and representations set forth in the Motion are supported by the declaration of Kenneth G.M. Mather, Movant's attorney of record in the Infringement Action.

**The Opposition**

On May 20, 2020, the Debtor filed an untimely limited opposition to the Motion (the "Opposition"). The Debtor does not assert any substantive objections against the Motion, but instead seeks a continuance on the underlying motion hearing to July 6, 2020 at 10:00 a.m. The Debtor states that it recently retained the services of litigation counsel for the Non-Bankruptcy Actions, following a protracted search complicated by the ensuing COVID-19 crisis. Accordingly, the Debtor requires additional time to permit incoming counsel to review the Non-Bankruptcy Actions, and advise Debtor's bankruptcy counsel on whether a substantive opposition to the Motion is required. The Opposition asserts that Movant rejected Debtor's request to continue the hearing date, which was a contributing factor in the untimely filing of the Opposition.

**The Reply**

On May 26, 2020, the Movant filed a reply in response to the Debtor's limited opposition (the "Reply"). In addition to reiterating arguments initially presented in the Motion, the Reply asserts that Debtor's continuance request is yet another delay tactic intended to forestall prosecution of the Non-Bankruptcy Actions. For instance, the Movant recalls that after giving Debtor and Stahl an opportunity to file an answer in the

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State Court Action, following their defaults, said parties responded by filing the instant bankruptcy and the Stahl Chapter 13 Case. Moreover, Movant questions Debtor's purported need for additional time because it is unlikely that incoming litigation counsel would be in a position to advise bankruptcy counsel on the decision to substantively oppose the Motion. *See* Reply, ¶ 7. Instead, Movant claims that time is of the essence to prevent the risk of conflicting findings with regard to legal issues shared between Debtor, Stahl, and Apex. Accordingly, U.S. District Court authorized Movant to continue prosecuting its case against Apex. *See* Reply, Ex. A. In sum, the Movant requests that the Court grant the Motion and reject the Debtor's illusory continuance request.

## **II. Findings of Fact and Conclusions of Law**

### **The Debtor's Continuance Request is Denied**

Within thirty days of a request for stay relief, the automatic stay terminates by operation of law with respect to the party making the request, unless the Court orders a continuation of the stay upon a finding that that "there is a reasonable likelihood that the party opposing relief" from the automatic stay will prevail. § 362(e)(1).

In support of its continuance request, the Debtor states that additional time is required to permit incoming litigation counsel to become familiar with the Debtor's case and to advise bankruptcy counsel on whether or not to oppose this Motion. The Debtor claims that bankruptcy counsel needs more time to consult with incoming counsel, but it does not furnish any concrete facts or legal arguments against stay-relief. The basis for the continuance request essentially amounts to speculation, given that the Debtor cannot plainly state if it even intends to oppose the Motion. It further strains credulity for Debtor to suggest that the incoming litigation counsel, who is not acquainted with the Non-Bankruptcy Actions, is well situated in advising bankruptcy counsel on filing an opposition to this stay relief motion. If litigation counsel possesses some specialized expertise that bankruptcy counsel lacks, the Debtor has neglected to explain as much to the Court. While it is understandable that Debtor's litigation counsel requires time to become familiar with the case, such request is more adequately presented in the Non-Bankruptcy Actions. There, the Debtor may request a trial continuance or an extension of important deadlines.

Pursuant to § 362(e)(1), the automatic stay will terminate by operation of law thirty days after the Movant's request for stay relief, unless the Court finds that there is a

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reasonable likelihood that the Debtor will prevail in its opposition to the Motion. The Debtor has failed to establish a reasonable likelihood that it will defeat stay relief. The Debtor speculates that a continuance *might* provide an opportunity to oppose stay-relief, but Debtor offers no facts whatsoever in support of this speculation. Given that the Movant filed this Motion approximately a month ago, the Debtor has had sufficient time to oppose stay relief. Because there is no basis for the Court to order continuation of the stay, denial of the continuance request is appropriate. [Note 3]

**Relief from Stay**

As a preliminary matter, a motion for relief from the automatic stay is a summary proceeding that does not involve an adjudication of the merits of the underlying claims. As recognized by the Ninth Circuit Bankruptcy Appellate Panel in *In re Luz Int'l, Ltd.*:

Given the limited grounds for obtaining a motion for relief from stay, read in conjunction with the expedited schedule for a hearing on the motion, most courts hold that motion for relief from stay hearings should not involve an adjudication of the merits of claims, defenses, or counterclaims, but simply determine whether the creditor has a colorable claim to the property of the estate. *See In re Johnson*, 756 F.2d 738, 740 (9th Cir.), *cert. denied*, 474 U.S. 828, 106 S.Ct. 88, 88 L.Ed.2d 72 (1985) ("Hearings on relief from the automatic stay are thus handled in a summary fashion. The validity of the claim or contract underlying the claim is not litigated during the hearing.").

219 B.R. 837, 842 (9th Cir. BAP 1998) (citation omitted). In a summary proceeding, the court's discretion is broad. *In re Santa Clara Cty. Fair Ass'n, Inc.*, 180 B.R. 564, 566 (B.A.P. 9th Cir. 1995).

Section 362(d)(1) provides that "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay . . . (1) for cause . . . ." 11 U.S.C. § 362(d)(1). "What constitutes 'cause' for granting relief from the automatic stay is decided on a case-by-case basis." *Kronemyer v. Am. Contractors Indem. Co. (In re Kronemyer)*, 405 B.R. 915, 921 (B.A.P. 9th Cir. 2009); *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162, 1166 (9th Cir. 1990). "To obtain relief from the automatic stay, the party seeking relief must first establish a prima facie case that 'cause' exists for relief under § 362(d)(1)." *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551, 557 (Bankr. C.D. Cal. 2004). "Once a prima facie case has been established, the burden shifts to the debtor

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to show that relief from the stay is unwarranted." *Id.*

In the Ninth Circuit, courts consider 12 non-exclusive factors to determine whether "cause" exists to grant relief to allow an entity to continue pending litigation against a debtor in non-bankruptcy forum:

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 a fiduciary;
4. Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
5. Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
6. Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
7. Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;
8. Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c);
9. Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);
10. The interests of judicial economy and the expeditious and economical determination of litigation for the parties;
11. Whether the foreign proceedings have progressed to the point where the parties are prepared for trial, and
12. The impact of the stay on the parties and the "balance of hurt[.]"

*Plumberex*, 311 B.R. at 559. Not all the factors are relevant in every case, and the Court is not required to give equal weight to each factor. *Id.* at 560.

The Court finds that the Movant has established a prima facie case that "cause" exists to grant it relief from stay under § 362(d)(1). First and foremost, granting stay relief will

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promote the interests of judicial economy, while minimizing the risk of piecemeal or redundant litigation as the Movant intends to prosecute its claims against the Co-Defendants in the Non-Bankruptcy Actions. Second, while neither the State Court nor the U.S. District Court are specialized tribunals established specifically to hear Movant's claims, both courts are more intimately familiar with the applicable federal and Florida law to more expeditiously move the Non-Bankruptcy cases to final judgment. Furthermore, having presided over the Non-Bankruptcy cases since fall 2019, both tribunals are more familiar with the parties' disputes. Third, allowing the Movant to litigate the State Court Action will best promote the judicial economy by adjudicating a final judgment as to the underlying claims that may either support or negate the filing of a proof of claim, and/or an adversary complaint.

As discussed above, nothing in the Debtor's Opposition substantively addresses the stay relief requested herein. Therefore, the Court deems the absence of any substantive opposition as consent to the Court's authority to enter an order granting the Motion. Local Bankruptcy Rule ("LBR") 9013-1(f)(3) ("The failure of the responding party to raise its objection or challenge in a Response will be deemed consent to the bankruptcy court's authority to enter a final order on the underlying motion.").

Finally, the Court has reviewed the commencement documents, the docket, and the representations made by Movant in the Motion and in the attached exhibits to assess whether this case was filed in bad faith. On the present record, the Court is unable to reach a finding that the Debtor filed this case in bad faith. Although the Court notes that the Debtor and Stahl filed bankruptcy cases just prior to the deadline to file an answer in the State Court Action, these facts do not persuade the Court that Debtor engaged in bad faith. *Cf. Matter of Littlecreek Development Co.*, 779 F.2d 1068, 1073 (5th Cir.1986) ("filing a bankruptcy petition on the eve of a scheduled foreclosure sale is not, by itself, sufficient to constitute bad faith") (internal citations omitted). There are countervailing factors here indicating that this bankruptcy case is legitimate. For instance, the Debtor filed motions to employ bankruptcy counsel and set a claims bar date within thirty days of the Petition Date. *See* Doc. Nos. 7, 8. The Debtor has also shown diligence with respect to its duty to file monthly operating reports. *See* Doc. Nos. 10, 20, and 23. Having considered the Debtor's bankruptcy case in its totality, the Court cannot conclude that this petition was filed in bad faith.

Based on the foregoing, the Court GRANTS the Motion pursuant to 11 U.S.C. § 362(d)(1) to permit the Movant to proceed under applicable non-bankruptcy law to

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enforce its remedies to proceed to final judgment in the non-bankruptcy forums, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or estate property. The Debtor's Opposition is overruled. Movant may not pursue any deficiency claim or any other claim against the Debtor or property of the estate, except that the Movant will retain the right to file a proof of claim, and/or an adversary complaint (to the extent applicable). This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

The Court also finds it appropriate to waive the 14-day stay prescribed by Federal Rule 4001(a)(3). All other relief is denied.

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED. The Debtor's request to continue the hearing on the Motion to July 6, 2020 is DENIED.

The Movant is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Court notes that the Movant filed a stay-relief motion to proceed with the Non-Bankruptcy Actions against Stahl in her chapter 13 case, currently set to be heard on June 2, 2020.

**Note 2:** Although Stahl currently claims 100% ownership of Lifeform, the Movant asserts that Stahl previously co-owned Lifeform with Emery Smith ("Smith"), who was formerly employed by Movant. MPA, ¶¶ 18-19. On May 16, 2018, in a separate Florida action, the Movant obtained an adverse judgment against Smith (the "Smith Judgment"). *Id.*, ¶ 19. The Smith Judgment contained findings and conclusions that specifically

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linked Stahl to the unlawful competition campaign against the Movant. *See* Motion, Ex. E (The Smith Judgment).

**Note 3:** Additionally, pursuant to local rules, a request to continue a hearing "must be filed as a separately captioned motion" and "a proposed order for continuance must...be lodged with the court upon filing of the motion." LBR 9013-1(m)(1).

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

XLmedica, Inc.

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

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**2:20-14808 SCHREINER'S FINE SAUSAGES, INC.**

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**#3.00** Hearing re [17] Motion For Authorization To Use Cash Collateral.

Docket 0

**Tentative Ruling:**

5/28/2020

Hearing required.

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

SCHREINER'S FINE SAUSAGES,

Represented By  
Robert B Rosenstein



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**Tuesday, June 2, 2020**

**Hearing Room 1568**

10:00 AM

**2:12-22639 Claire Levine**

**Chapter 7**

**#1.00 APPLICANT: Trustee: Howard Ehrenberg**

Hearing re [707] and [708] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

6/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final [**Note 1**]):

Total Fees: \$116,235.63 [*see* Doc. No. 707]

Total Expenses: \$2,517.97 [*see id.*]

United States Trustee Fees: \$650 [*see id.*]

Bond Payments: \$610.57 [*see id.*]

**Note 1:** The Court previously approved \$24,385.83 in fees and expenses for Miller Barondness, LLP, special counsel for trustee [*see* Doc. No. 241].

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine

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whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Trustee shall submit a conforming order within seven days of the hearing.

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

Claire Levine

Represented By

Dennis E McGoldrick

Thomas M Geher

Stella A Havkin

Peter J Rudinskas

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Howard M Ehrenberg (TR)

Daniel A Lev

Asa S Hami

Jennifer M Hashmall

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10:00 AM

**2:12-22639 Claire Levine**

**Chapter 7**

**#2.00 APPLICANT: Accountant: Menchaca & Company LLP**

Hearing re [707] and [708] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

6/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

**Fees:** \$14,939 approved [*see* Doc. No. 706]

**Expenses:** \$48.30 approved [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 1568**

10:00 AM

CONT... Claire Levine

**Chapter 7**

**Debtor(s):**

Claire Levine

Represented By

Dennis E McGoldrick

Thomas M Geher

Stella A Havkin

Peter J Rudinkas

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Howard M Ehrenberg (TR)

Daniel A Lev

Asa S Hami

Jennifer M Hashmall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

**2:12-22639 Claire Levine**

**Chapter 7**

**#3.00 APPLICANT: Bond Payments - International Sureties LTD**

Hearing re [707] and [708] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

See Cal. No. 1, incorporated in full by reference.

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

Claire Levine

Represented By

Dennis E McGoldrick

Thomas M Geher

Stella A Havkin

Peter J Rudinkas

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Howard M Ehrenberg (TR)

Daniel A Lev

Asa S Hami

Jennifer M Hashmall

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

**2:12-22639 Claire Levine**

**Chapter 7**

**#4.00 APPLICANT: Attorney for Trustee: SulmeyerKupetz**

Hearing re [707] and [708] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

6/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

**Fees:** \$266,282.50 approved [*see* Doc. No. 705]

**Expenses:** \$3,977.86 approved [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 1568**

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10:00 AM

CONT... Claire Levine

**Chapter 7**

**Debtor(s):**

Claire Levine

Represented By

Dennis E McGoldrick

Thomas M Geher

Stella A Havkin

Peter J Rudinkas

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Howard M Ehrenberg (TR)

Daniel A Lev

Asa S Hami

Jennifer M Hashmall

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

**2:12-22639 Claire Levine**

**Chapter 7**

**#5.00 APPLICANT: Fees, United States Trustee**

Hearing re [707] and [708] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

6/1/2020

See Cal. No. 1, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Claire Levine

Represented By

Dennis E McGoldrick

Thomas M Geher

Stella A Havkin

Peter J Rudinkas

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Howard M Ehrenberg (TR)

Daniel A Lev

Asa S Hami

Jennifer M Hashmall



**United States Bankruptcy Court  
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10:00 AM

**2:12-22639 Claire Levine**

**Chapter 7**

**#6.00 APPLICANT: Special Counsel for Trustee: Miller Barondess LLP**

Hearing re [707] and [708] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

6/1/2020

See Cal. No. 1, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Claire Levine

Represented By

Dennis E McGoldrick

Thomas M Geher

Stella A Havkin

Peter J Rudinskas

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Howard M Ehrenberg (TR)

Daniel A Lev

Asa S Hami

Jennifer M Hashmall

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-18676 Arman Narinyan and Suzanna Azizian**

**Chapter 7**

**#7.00 APPLICANT: SAM LESLIE, TRUSTEE**

Hearing re [35] and [36] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$1,450 [*see* Doc. No. 35]

Total Expenses: \$4.69 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Arman Narinyan and Suzanna Azizian**

**Chapter 7**

**Debtor(s):**

Arman Narinyan

Represented By  
Robert M Yaspan

**Joint Debtor(s):**

Suzanna Azizian

Represented By  
Robert M Yaspan

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, June 2, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#8.00** Hearing  
RE: [30] Motion to Dismiss Adversary Proceeding Defendant Charlton Lui's Notice of Motion and Motion to Dismiss Plaintiff's First Amended Complaint; Declaration of Sanaz Bereliani

Docket 30

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 5-4-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe	Represented By Michael Jay Berger
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**Defendant(s):**

Charlton Lui	Represented By Sanaz S Bereliani
Catalyst Trust	Pro Se
CP WW Ventures Inc	Pro Se
CTC Investment Holdings LLC	Pro Se
Primo Hospitality Group, Inc.	Pro Se
Hovahannes Tshavrushyan	Represented By Roland H Kedikian

**Plaintiff(s):**

Rosendo Gonzalez	Represented By Diane C Weil
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**Trustee(s):**

Rosendo Gonzalez (TR)	Represented By
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, June 2, 2020**

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10:00 AM

**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Sonia Singh  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, June 2, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01416 Linsangan v. Salamat et al

- #9.00** HearingRE: [17] Motion Defendants' Notice of Motion and Motion to Compel Responses by Plaintiff to Defendants' Request For Production of Documents and Interrogatories, and Request For Attorney's Fees and Sanctions, and Declaration of David B. Lally, Esq., with Proof of Service **WARNING: Incorrect hearing time on PDF. Correct hearing time is 10:00 AM. See docket entry #[19] for corrective action; Modified on 4/30/2020 (Evangelista, Maria).**

Docket 17

**Tentative Ruling:**

6/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion to Compel is **GRANTED**. By separate order, the Court will require Plaintiff to appear and show cause why this action should not be dismissed for failure to prosecute.

**Pleadings Filed and Reviewed:**

- 1) Adversary Complaint to Object to Discharge of Debt and to Determine Dischargeability of Debt Under 11 U.S.C. § 523(a)(2) and 523(a)(6) [Doc. No. 1] (the "Complaint")
- 2) Defendants' Notice of Motion and Motion to Compel Responses by Plaintiff to Defendants' First Request for Production of Documents and First Set of Interrogatories, and Request for Attorney's Fees, Costs, and Sanctions [Doc. No. 17] (the "Motion")
  - a) Discovery Stipulation Between Plaintiff and Defendants Regarding Defendants' Motion to Compel Discovery Responses to Defendant's Request for Production of Documents and First Set of Interrogatories from Plaintiff [Doc. No. 18]
  - b) Amended Notice of [Motion] [Doc. No. 21]
- 3) No opposition to the Motion is on file

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**Hearing Room 1568**

10:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**

### **I. Facts and Summary of Pleadings**

On September 20, 2019, Maria Linsangan ("Plaintiff") filed a dischargeability action against Marlon Salamat and Daisy Salamat (the "Defendants"). Plaintiff alleges that she made a business loan to Defendants in the amount of \$100,000; that Defendants never intended to use the loaned proceeds for business purposes and instead converted the money for personal use; and that the indebtedness arising in connection with the loan is non-dischargeable pursuant to § 523(a)(2)(A) and (a)(6). Defendants move (1) to compel Plaintiff to respond to discovery requests and (2) seek attorneys' fees and costs in the amount of \$4,148.75 and sanctions in the amount of \$2,500.00 against Plaintiff and Plaintiff's counsel, jointly and severally. No opposition to the Motion is on file.

#### **Summary of the Motion**

The Motion may be summarized as follows:

Plaintiff has not produced a single document since filing the Complaint on September 20, 2019. On December 19, 2019, Defendants served a Request for Production of Documents (the "RFP") and Interrogatories upon Plaintiff. Plaintiff failed to respond. Defendants' counsel sent Plaintiff's counsel a meet-and-confer e-mail and the required discovery stipulation, and also attempted to reach counsel by telephone. Plaintiff's counsel did not respond to any of these attempts at communication. When Plaintiff's counsel ultimately responded, he stated that he had been having trouble communicating with his client.

Plaintiff should be compelled to respond to the discovery by no later than June 23, 2020. In addition, Plaintiff and Plaintiff's counsel should be held jointly and severally liable for \$4,148.75 in attorneys' fees and \$2,500.00 in sanctions.

### **II. Findings and Conclusions**

#### **A. Defendants' Motion to Compel is Granted**

Civil Rule 37(a)(1) provides: "On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action." Production of documents may be compelled if "a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34." Civil Rule 37(a)(3)(B)(iv). For purposes of Civil Rule 37, "an evasive or incomplete disclosure, answer, or response

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**CONT... Marlon Camar Salamat**

**Chapter 7**

must be treated as a failure to disclose, answer, or respond."

"Parties are permitted to discover any relevant nonprivileged matter. Fed.R.Civ.P. 26(b)(1). This rule is construed very broadly, encompassing 'any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case.' Discovery is not limited to the issues raised only in the pleadings, but rather it is designed to define and clarify the issues." *Miller v. Pancucci*, 141 F.R.D. 292, 296 (C.D. Cal. 1992). "The party opposing discovery bears the burden of resisting disclosure." *Rogers v. Giurbino*, 288 F.R.D. 469, 478-79 (S.D. Cal. 2012).

Plaintiff has failed to respond to discovery to which the Defendants are entitled. Defendants attempted in good faith to meet and confer with Plaintiff prior to filing the Motion, as required by Civil Rule 37. Plaintiff is ordered to respond to the RFPs and the Interrogatories by no later than **June 23, 2020**.

**B. The Court Awards Sanctions to Defendant**

Civil Rule 37(a)(5)(A) provides that where a motion to compel discovery is granted, the "court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." However, if any of the following three circumstances apply, the Court must not order the payment of expenses:

- i. The movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action;
- ii. The opposing party's nondisclosure, response, or objection was substantially justified; or
- iii. Other circumstances make an award of expenses unjust.

Civil Rule 37(a)(5)(A)(i)–(iii).

Here, Defendants attempted to meet and confer prior to filing the Motion. Plaintiff's failure to respond to discovery was not substantially justified, and there are no circumstances which make an award of expenses unjust. Plaintiff and Plaintiff's counsel shall be held jointly and severally liable for the reasonable attorneys' fees incurred by Defendants in filing the Motion. Having reviewed the Motion, the Court finds Defendants are entitled to attorneys' fees in the amount of \$1,500.00 as compensation for the costs of compelling Plaintiff's discovery responses.

**C. By Separate Order, the Court Will Require Plaintiff to Show Cause Why this Action Should Not be Dismissed for Failure to Prosecute**

Plaintiff's non-responsiveness required Defendants to file the instant Motion. Plaintiff



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CONT... **Marlon Camar Salamat**

**Chapter 7**

failed to respond to the Motion, leaving in doubt whether Plaintiff intends to prosecute this action. By separate order, the Court will require Plaintiff to appear and show cause why this action should not be dismissed for failure to prosecute.

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED**. By separate order, the Court will require Plaintiff to appear and show cause why this action should not be dismissed for failure to prosecute. Within seven days of the hearing, Defendants shall submit an order granting the Motion that incorporates this tentative ruling by reference. The Court will prepare and enter the order require Plaintiff to show cause why this action should not be dismissed for failure to prosecute.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto  
David Brian Lally

**Defendant(s):**

Marlon Salamat

Represented By  
David Brian Lally

Daisy Salamat

Represented By  
David Brian Lally

DOES 1-10, Inclusive

Pro Se

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto

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10:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**

David Brian Lally

**Plaintiff(s):**

Maria Linsangan

Represented By  
Sergio A Rodriguez  
David Brian Lally

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

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**Hearing Room 1568**

10:00 AM

**2:20-12237 Christopher Paul Rabalais**

**Chapter 7**

**#10.00** HearingRE: [26] Motion to Dismiss Case for Abuse and Notice of Motion (BNC)

Docket 26

**Tentative Ruling:**

6/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is DENIED.

**Pleadings Filed and Reviewed:**

- 1) Creditor Seth Leon's Notice of Motion and Motion to Dismiss Bankruptcy Case Pursuant to 11 U.S.C. §§ 701[sic](a);(b) [Doc. No. 26]
  - a) Notice of Errata [Doc. No. 33] (the "Motion")
- 2) Request for Judicial Notice in Support of the Motion [Doc. No. 27]
- 3) Debtor Rabalais's Response to Creditor's Motion to Dismiss Bankruptcy Case Pursuant to 11 U.S.C. §§ 707(a);(b) [Doc. No. 35] (the "Opposition")
  - a) Letter from Debtor [Doc. No. 35-1]
- 4) Creditor Seth Leon's Reply in Support of Motion [Doc. No. 36] (the "Reply")

**I. Facts and Summary of Pleadings**

Before the Court is a motion to dismiss the bankruptcy case of Christopher Paul Rabalais (the "Debtor"), filed by creditor Seth Leon ("Leon") pursuant to 11 U.S.C. § 707(a) and (b). The Debtor objects to the request for dismissal by way of a timely filed objection (the "Opposition").

The Debtor filed a voluntary petition under chapter 7 on February 28, 2020 (the "Petition Date"). The instant case is the third bankruptcy petition filed by the Debtor since 2011 [Doc. No. 30]. The Debtor's most significant debt arises from Leon's 2010 state court judgment (the "Judgment"), which now stands at approximately \$748,188.16

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**CONT... Christopher Paul Rabalais**

**Chapter 7**

per the commencement documents. *See* Doc. No. 22. Under the belief that the Debtor possessed property in Humble, Texas, Leon filed an abstract of judgment in the Southern District of Texas on August 27, 2013. Subsequently, in October 2019, Leon filed an application for renewal of judgment in Los Angeles Superior Court, which the Debtor opposed. A hearing on this issue is currently scheduled for October 14, 2020. Apart from the Judgment, the Debtor's commencement documents list a partially-secured claim for \$28,785 and unsecured claims collectively estimated at \$64,724.32.

**A. Background**

The following summary of the parties' underlying disputes is based on the record before the Court, which includes the documents received in evidence, and the memoranda and briefs filed by the parties. This overview is also based on the Fifth Circuit's opinion in *In re Rabalais (Rabalais v. Leon)*, 496 Fed. Appx. 498 (5th Cir. 2012), which the Court judicially notices on its own motion. [Note 1].

**The Debtor's Online Business and the California Action**

The Debtor was the founder, president, and CEO of AllSportsMarket ("ASM"), which he managed through the late 2000's. *In re Rabalais*, 496 Fed. Appx. at 499. ASM was a "sports financial exchange," described as an online investment platform that allowed investors to purchase and sell shares, for which values depended on the performance of sports teams and individual athletes. *Id.*; Opposition at 23 (page citations are to the pagination provided at the top of each document). Leon was one of these investors, and his initial \$31,000 investment appreciated to an excess of \$400,000 through a series of successful trades. *In re Rabalais*, 496 Fed. Appx. at 499; *see* Motion at 9. When Leon attempted to withdraw the earnings from his ASM account, he discovered that his money was gone. *In re Rabalais*, 496 Fed. Appx. at 499; *see* Motion at 9. Leon sued the Debtor in a California state court (the "State Court") on January 8, 2008, alleging fraud, deceit, false advertising, and other causes of action (the "California Action"). *See* RJN, Ex. A (original complaint). After months of heavily-contested motion practice, the State Court held a two-day trial on October 27, 2009 and November 12, 2009. *See* RJN, Ex. E (transcript of trial proceedings). Leon provided trial testimony in support of his claims, but the Debtor failed to appear at the trial. *In re Rabalais*, 496 Fed. Appx. at 499. On January 4, 2010, the State Court entered a judgment against the Debtor, ASM, and another affiliated entity, jointly and severally, in the sum of \$379,346.14, plus interest. *See* RJN, Ex. G (the Judgment).

**The Debtor's Voluntary Chapter 7 Case and the Non-Dischargeability Judgment**

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Central District of California  
Los Angeles  
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**CONT... Christopher Paul Rabalais**

**Chapter 7**

On January 3, 2011, the Debtor filed a voluntary chapter 7 case in the U.S. Bankruptcy Court for the Southern District of Texas (the "Texas Bankruptcy Court"). *See In re Rabalais*, 4:11-bk-30088, Bankr. S.D. Tex. 2011. On April 8, 2011, Leon commenced an adversary proceeding against the Debtor seeking to determine the dischargeability of the Judgment under 11 U.S.C. § 523. Premised on the findings made by the State Court, the Texas Bankruptcy Court considered and granted a motion for summary judgment filed by Leon on February 13, 2012. *See Motion* at 12. The Texas Bankruptcy Court found that the Judgment was non-dischargeable under § 523(a)(2) as the Debtor had procured Leon's money by false pretenses, false representations, and actual fraud (the "Non-Dischargeability Judgment"). *In re Rabalais*, 496 Fed. Appx. at 500. More specifically, applying the doctrines of collateral estoppel and *Rooker-Feldman*, the Texas Bankruptcy Court concluded that the underlying findings of fraud had been actually and necessarily litigated in the California Action. *Id.* On April 4, 2012, the Debtor appealed the Texas Bankruptcy Court's decision to the U.S. District Court for the Southern District of Texas (the "U.S. District Court"), which upheld the Non-Dischargeability Judgment.

On November 19, 2020, the Fifth Circuit affirmed the U.S. District Court. The Fifth Circuit concluded that the bankruptcy court could not relitigate the State Court's decision, "even assuming, *arguendo*, that the [State Court] erred by describing ASM as gambling or a Ponzi scheme." *In re Rabalais*, 496 Fed. Appx. at 500 (emphasis in the original). The Fifth Circuit further stated:

[The Debtor's] "attack" on the California court's decision-making ought to have been raised on appeal in the California court system, not before a federal bankruptcy court. Like the bankruptcy court, we lack the authority to review the decision of the California court.

*Id.* The basis for the Fifth Circuit's decision was that "[u]nder the Rooker–Feldman doctrine, federal courts lack jurisdiction to entertain collateral attacks on state court judgments." *Id.* (internal citations omitted). Finally, on April 1, 2013, the Debtor's petition for a *writ of certiorari* before the United States Supreme Court was denied.

With the exception of the Judgment, the Debtor received a discharge of all other debts on January 9, 2012. *See In re Rabalais*, 4:11-bk-30088 at Doc. No. 46.

*The Debtor's Voluntary Chapter 13 Case*

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Central District of California  
Los Angeles  
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10:00 AM

**CONT... Christopher Paul Rabalais**

**Chapter 7**

The Debtor filed his second voluntary bankruptcy case on September 23, 2013. *See In re Rabalais*, 4:13-bk-35851, Bankr. S.D. Tex. 2013. A hearing on the Debtor's chapter 13 plan was held on January 30, 2014. *See id.* at Doc. No. 65. The court initially determined that the case had been filed in bad faith and dismissed it with a 180-day refiling bar, but subsequently reconsidered its ruling to a dismissal without prejudice. *See id.* Based on the record before the Court, the Debtor opted not to challenge the chapter 13 dismissal and has not filed another bankruptcy petition since 2013.

**B. The Motion**

On April 29, 2020, Leon filed the Motion, which urges the Court to dismiss the Debtor's case on three independent statutory grounds: for cause under § 707(a), in light of the Debtor's bad faith conduct pursuant to § 707(b)(3)(A), and in the totality of the circumstances under § 707(b)(3)(B). Leon makes the following arguments and representation in support of the Motion:

Leon claims that "cause" under § 707(a) is established as the Debtor's purported intention to seek a "fresh start" is demonstrably false. Accordingly, the Debtor cannot possibly avail himself of bankruptcy relief because multiple courts have determined that Leon's claim—the Debtor's most substantial debt—is non-dischargeable, and his remaining debts are comparatively insignificant. Further supporting dismissal is the fact that the Non-Dischargeability Judgment is subject to *res judicata*. Analogously, in *In re Barry*, No. 05-40736, 2005 WL 3752228, at \*1 (Bankr. N.D. Fla. Nov. 21, 2005), a debtor's chapter 7 case was dismissed, where the largest debt was adjudged to be dischargeable, such decision was subject to *res judicata*, and the remaining debts were minimal. *See* Motion at 15. Additionally, Leon argues that the case may be dismissed for cause due to the Debtor's "egregious and bad faith behavior."

Because the Debtor identifies that he owes primarily consumer debts, this case may also be dismissed as an abuse of the Bankruptcy Code under § 707(b)(3) based on his bad faith behavior. Leon asserts that the Debtor's objectionable conduct should be assessed in the context of numerous factors: (a) the history of prior bankruptcy cases and dismissals; (b) whether the Debtor sought automatic stay relief for improper purposes; and (c) whether the Debtor acted egregiously. *See* Motion at 16 (citing to *In re Mitchell*, 357 B.R. 142, 153 (Bankr. C.D. Cal. 2006)). The Debtor is a serial filer based on his two previous bankruptcy cases, numerous attempts to appeal the Non-Dischargeability Judgment, and the dismissal of the chapter 13 case for bad faith. The Debtor further acted improperly by invoking the automatic stay to delay the renewal of the Judgment in

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California. As such, the Debtor's filing is a wrongful attempt to frustrate Leon's efforts to collect on the Judgment. Finally, the fact that Debtor has used the legal system to circumvent Leon's collection efforts for years is inherently egregious and further supports the dismissal of this case. For the same reasons set forth above, the case should be dismissed as an abuse based on the totality of the circumstances standard under § 707(b)(3)(B).

**C. The Opposition**

On May 18, 2020, the Debtor timely filed a response to the Motion, asserting the following arguments and representations in opposition:

Leon falls far below the preponderance of the evidence standard required to establish "cause" under § 707(a). *See In re Aiello*, 428 B.R. 296 (Bankr. E.D.N.Y. 2010). As an initial matter, the three examples cited as grounds for dismissal under § 707(a) are not applicable here. Instead, Leon attempts to show cause by merely questioning the Debtor's motives in seeking bankruptcy relief. Leon's principal argument that Debtor's bankruptcy objectives are improper or spurious is that he holds the largest claim. However, the decisions reached in *In re Chovev*, 559 B.R. 339 (Bankr. E.D.N.Y. 2016) and *In re Jacobs*, No. 17-21007-PRW, 2018 WL 671132 (Bankr. W.D.N.Y. Feb. 1, 2018) support the proposition that holding the largest or the only claim against the estate does not entitle a creditor to dismiss the case. Second, Leon's contention that Debtor engaged in "egregious and bad faith behavior" is poorly supported and fails to meet his evidentiary burden. As established in the Eighth Circuit and the Southern District of New York, a dismissal for bad faith pursuant to § 707(a) constitutes "extraordinary relief" that is only rarely granted. *See In re Grullon*, No. 13-11716 (ALG), 2014 WL 2109924, at \*1 (Bankr. S.D.N.Y. May 20, 2014); *In re Huckfeldt*, 39 F.3d 829 (8th Cir. 1994)). However, the Debtor principally relies on *In re Padilla*, 222 F.3d 1184 (9th Cir. 2000) to support the claim that bad faith is inapplicable in § 707(a) "cause" analysis. In *Padilla*, the Ninth Circuit went beyond the Eight Circuit's decision, in declining to find that bad faith constituted cause for dismissal, as Congress had intended in drafting § 707(a). The Ninth Circuit reaffirmed the *Padilla* holding in *In re Sherman*, 491 F.3d 948 (9th Cir. 2007), which determined that "*Padilla* does not...permit a free-floating concept of cause for dismissal to substitute for careful application of the bankruptcy scheme that Congress devised."

Moreover, the Debtor filed this case intending to address genuine economic struggles. In support, the Debtor provides a lengthy narrative on the financial strain on his business

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ventures resulting from the Great Recession, and more recently, from the COVID-19 pandemic. Facing the threat of homelessness, the Debtor recalls that his chapter 13 case was precipitated, not by Leon's claim, but by the need to refinance the mortgage loan on his residence. Likewise, the instant bankruptcy filing was not initiated to discharge Leon's debt, but instead to resolve financial issues caused by a struggling business endeavor. The Debtor's finances do not allow for an opulent lifestyle: his 2019 annual income of \$38,289 was just above the local minimum wage threshold, and his 2018 Chevrolet Impala, Debtor's "only meaningful possession," was repossessed at the outset of the case.

In opposition to the presumption of abuse arguments, the Debtor claims that his debts are primarily non-consumer debts, and therefore, Leon cannot rely on §707(b) provisions. The statutory language clearly indicates that § 707(b) is limited to debtors "whose debts are primarily consumer debts." Therefore, § 707(b) is inapplicable to Debtor's case as the bulk of his debts were incurred to pay salaries and keep his business venture afloat. That Debtor initially represented that most of his debts were consumer in nature was an honest error, which he subsequently corrected on the amended petition.

The balance of the Debtor's twenty-four-page objection is dedicated to relitigating both the State Court's findings and the Non-Dischargeability Judgment. To the extent that the Debtor veers off the mark, delves into protracted, unnecessary narratives, or directs hyperbolic commentary at Leon, the Debtor's soliloquys sap the persuasive value of his most meaningful arguments. In short, the Debtor presents yet another collateral attack on the State Court's factual findings and credibility determinations and asserts that recent Supreme Court precedent on the Rooker-Feldman doctrine permits for the dischargeability of Leon's claim. *See* Opposition at 24. As further explained below, the Non-Dischargeability Judgment, which was repeatedly affirmed on appeal, has a preclusive effect on the Debtor's arguments.

**D. The Reply**

Leon makes the following arguments and representations in reply to the Opposition [Doc. No. 36]:

The Debtor's "peculiarly bipolar opposition" demonstrates his duplicitous motives in filing the instant case. *See* Reply at 2. If the Debtor actually did not file this case "to discharge Leon's debt, nor [attempt] to stop any collection efforts," then Leon is willing to enter into a stipulation agreeing as much. *See id.* (citing to the Opposition at 1).



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However, the fact that Debtor devoted a portion of the Opposition to attack the dischargeability of Leon's claim is evidence to the contrary. *See id.* at 3 (citing to the Opposition at 16, 24). If the Debtor is attempting to discharge Leon's debt, then Leon is prepared to commence an adversary proceeding.

## **II. Findings and Conclusions**

As an initial matter, the Court notes that the Opposition invites this Court to revisit the issue of the dischargeability of Leon's debt. As indicated above, the Texas Bankruptcy Court previously adjudged Leon's debt to be non-dischargeable pursuant to § 523(a)(2) and said court's decision was repeatedly affirmed on appeal. In fact, in affirming the Texas Bankruptcy Court's decision, the Fifth Circuit stated:

[The Debtor's] "attack" on the California court's decision-making ought to have been raised on appeal in the California court system, not before a federal bankruptcy court. Like the bankruptcy court, we lack the authority to review the decision of the California court.

*In re Rabalais*, 496 Fed. Appx. at 500. Accordingly, because prior courts have already determined that the Judgment is subject to a preclusive effect, the Court does not need reconsider the decisions previously rendered on the subject. Therefore, insofar as it seeks to revisit the question of Leon's debt, the Opposition is overruled.

### **A. Dismissal for "Cause" under § 707(a) is Not Warranted**

Pursuant to § 707(a), a court may dismiss an individual chapter 7 case only after notice and a hearing, and only for cause, which includes the following grounds: (1) unreasonable delay by the debtor resulting in prejudice; (2) non-payment of certain mandatory fees and charges; and (3) failure to file the information required by § 521(a), but only on the motion of the United States trustee. The above-referenced examples, however, are illustrative and not exhaustive. *See Huckfeldt v. Huckfeldt (In re Huckfeldt)*, 39 F.3d 829, 831 (8th Cir.1994) (holding that enumerated grounds for a "for cause" dismissal are nonexclusive). The Court is aware that there is a circuit split concerning whether bad faith can be grounds to dismiss a case under § 707(a). *See, e.g. Industrial Ins. Servs., Inc. v. Zick (In re Zick)*, 931 F.2d 1124, 1126 (6th Cir. 1991) (bad faith can provide cause for a § 707(a) dismissal); *In re Smith*, 229 B.R. 895, 897 (Bankr. S.D. Ga. 1997) (debtor's lack of good faith in filing bankruptcy petition will constitute "cause" for dismissal of Chapter 7 case); *In re Etcheverry*, 242 B.R. 503, 506 (D. Colo. 1999) (holding that because there is no explicit "good faith" requirement in

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chapter 7, bad faith cannot constitute "cause" for dismissal under § 707(a); *In re Landes*, 195 B.R. 855 (Bankr. E.D. Pa.1996) (holding that a good faith filing requirement cannot be read into § 707(a)). As a matter of first impression, the Ninth Circuit concluded:

The Bankruptcy Code's language and the protracted relationship between reorganization debtors and their creditors lead us to conclude that bad faith per se can properly constitute "cause" for dismissal of a Chapter 11 or Chapter 13 petition but not of a Chapter 7 petition under § 707(a).

*In re Padilla*, 222 F.3d 1184, 1193 (9th Cir. 2000). Instead, courts considering dismissal under § 707(a) should assess whether the conduct at issue constitutes "cause," and "cause" under the subject provision contemplates "technical or procedural violations." *See id.* (determining that debtor's pre-petition credit card bust-out was not a technical or procedural violation, nor grounds for dismissal under § 707(a)). Misconduct perpetrated by a chapter 7 debtor must be analyzed in context to bankruptcy provisions addressing such behavior. *Id.* at 1194 (debtor's credit card bust-out was not dismissible under § 707(a), given that such misconduct was addressed by § 707(b)).

Having reviewed the record before it, the Court determines that the Debtor's alleged bad faith conduct does not constitute a "technical or procedural violation." Arguing that dismissal under § 707(a) is in order, Leon accuses the Debtor of having filed the instant bankruptcy under false pretenses. Leon presses the point that the Debtor is incapable of receiving a "fresh start" under chapter 7 because the largest claim against the Debtor has been determined to be non-dischargeable, and the remaining debts are comparatively insignificant. Leon cites *In re Barry*, *In re Bilzerian*, and *In re Schwartz* in support of the argument that creditors holding non-dischargeable claims are entitled to request dismissal of a bankruptcy case. These decisions focused on whether a dismissal under § 707(a) was in the best interests of the creditors and the debtor. However, the circumstances of each case are different from the present facts. In *Schwartz*, for example, the request to dismiss came on the debtor's own petition, at the objection of the largest creditors. There, the court decided to grant the dismissal request, finding that although the bankruptcy filing appeared to be legitimate, the debtor's opportunity to receive a fresh start had been impaired by a non-dischargeability judgment. *See In re Schwartz*, 58 B.R. 923, 926-27 (Bankr. S.D.N.Y.1986). Moreover, judicial economy was in favor of dismissal, where the debtor intended to pursue an action against one of the creditors in state court. *See id.* at 927. Both in *Barry* and *Bilzerian*, each bankruptcy case was ascertained to be contrary to the interests of the debtor and creditors, where the respective

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debtors had either a “few small debts” or were unable to “discharge virtually any significant debt.” *See In re Barry*, 2005 WL 3752228 at \*3; *see also In re Bilzerian*, 258 B.R. 850, 858 (Bankr. M.D. Fla. 2001).

Here, the Court recognizes that there is legitimacy in the Debtor’s bankruptcy objectives, to the extent that he seeks to obtain a discharge of unsecured business debts. Accordingly, the Debtor has unsecured debt in excess of \$64,000. Although a minimal dollar sum in comparison to the Judgment, the Debtor’s unsecured debt is by no means insignificant based on his monthly income of \$3,271. The Debtor’s assets consist of an ownership interest in a vehicle and personal property collectively valued at approximately \$4,000. The chapter 7 trustee’s diligent inquiry into the Debtor’s financial affairs did not reveal any administrable property. *See Doc. No. 32.* Furthermore, having received his prior discharge more than eight years ago, the Debtor is not barred from discharge under § 727(a)(8), except as discussed above. These findings lend credence to the claim that the Debtor legitimately seeks a fresh start, notwithstanding his misguided attempt to challenge the Non-Dischargeability Judgment once again. Moreover, Leon furnishes no facts indicating that the Debtor committed an act constituting a “technical or procedural violation.” While Leon’s concern over the potential delay of state court proceedings is valid, there are other bankruptcy remedies available to him that may address the issue. *See In re Hickman*, 384 B.R. 832, 840 (B.A.P. 9th Cir. 2008) (If a remedy for the alleged "cause" for dismissal is provided by other provisions of the Bankruptcy Code, "cause" cannot be established under § 707(a)); *see also In re Sherman*, 491 F. 3d 948, 971-972 (9th Cir. 2007) ("cause" not shown where a dismissal motion was based on the debtors’ use of bankruptcy as a refuge from district court jurisdiction, given that § 362(b) specifically addressed the debtors’ conduct).

In sum, Leon does not present sufficient “cause” to dismiss this case pursuant to § 707(a).

**B. Section 707(b) Provisions are Not Applicable**

The Bankruptcy Code authorizes a bankruptcy court to dismiss a case filed under chapter 7 after a finding of abuse. *See* § 707(b)(1). Section 707(b)(1) provides in relevant part:

After notice and a hearing, the court, on its own motion or on a motion by

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the United States trustee, trustee (or bankruptcy administrator, if any) or any party in interest, may dismiss a case filed by an individual debtor under this chapter *whose debts are primarily consumer debts*. . .if it finds that the granting of relief would be an abuse of the provisions of this chapter.

11 U.S.C. § 707(b)(1) (emphasis added).

**1. Leon lacks standing to request dismissal under § 707(b)**

A dismissal request under § 707(b) is limited to the bankruptcy judge or the United States trustee, "if the current monthly income of the debtor...as of the order for relief, when multiplied by 12, is equal to or less than—in the case of a debtor in a household of 1 person, the median family income of the applicable State." *See* § 707(b)(6)(A).

Here, the Debtor's commencement documents indicate that he earns an estimated annual income of \$39,252. *See* Doc. No. 22 [amended chapter 7 petition]. The Debtor's approximate yearly income is not contested by Leon. The California median family income for a single wage-earner from November 1, 2019 to March 31, 2020 is \$59,286. *See* Census Bureau Median Family Income By Family Size, United States Department of Justice, [https://www.justice.gov/ust/eo/bapcpa/20191101/bci\\_data/median\\_income\\_table.htm](https://www.justice.gov/ust/eo/bapcpa/20191101/bci_data/median_income_table.htm) (last visited May 29, 2020). Because the Debtor's annual income is less than the California median family income, Leon is ineligible to petition for dismissal under § 707(b). However, even if the Debtor's income proves to be higher than the median income in California, the Court finds that the majority of debts owed by him are non-consumer, business debts. [**Note 2**].

For the reasons set forth above, the Court determines that the grounds for dismissal prescribed by § 707(b) do not apply to this case.

**III. Conclusion**

Based upon the foregoing, the Motion is DENIED.

Leon is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

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to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Federal Rule of Evidence 201 allows a court to take judicial notice of facts that are not subject to reasonable dispute because they are either "(1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." *In re Blumer*, 95 B.R. 143, 147 (B.A.P. 9th Cir. 1988). It is not necessary that the court be requested to take judicial notice of a fact before it is authorized to do so. *United States v. Harris*, 331 F.2d 600, 601 (6th Cir. 1964). Here, the Court takes judicial notice of Fifth Circuit's opinion, *sua sponte*, not for the truth of the underlying facts, but to provide a summary of the parties' disputes. Essential to its preclusion analysis, the Court also takes judicial notice of the opinion for the purpose of ascertaining the specific facts and issues considered by the Fifth Circuit in reaching its decision. Additionally, the Court finds it appropriate to grant Leon's judicial notice request.

**Note 2:** The Ninth Circuit interprets the term "primarily" in § 707(b)(1) to require that the overall ratio of consumer debt is greater than fifty percent. *See Zolg v. Kelly (In re Kelly)*, 841 F.2d 908, 913 (9th Cir. 1988).

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

Christopher Paul Rabalais

Pro Se

**Trustee(s):**

John P Pringle (TR)

Pro Se

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**2:18-11284 Damu Vusha and Akiba Vusha**

**Chapter 11**

**#11.00** Post-Confirmation Status Conference

fr. 11-19-19; 3-18-20; FR. 3-31-20

Docket 156

**Tentative Ruling:**

6/1/2020

For the reasons set forth below, a continued Post-Confirmation Status Conference shall take place on **December 8, 2020, at 10:00 a.m.**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

**Pleadings Filed and Reviewed:**

- 1) Chapter 11 Post-Confirmation Status Report (Second) [Doc. No. 190] (the "Status Report")
- 2) Notice of Withdrawal of the Motion to Withdraw as Reorganized Debtors' Bankruptcy Counsel filed on March 3, 2020 [Doc. No. 178]

No appearances required. This is the second post-confirmation status conference. A continued Post-Confirmation Status Conference shall be held on **December 8, 2020, at 10:00 a.m.** The Debtors must submit a further Post-Confirmation Status Report (the "Third Status Report") by no later than fourteen days prior to the hearing. The Third Status Report should inform the Court about the status of the sale of real property located at 1300 W. 69th Street, Los Angeles, California 90044, and if the Debtors successfully cured outstanding deficiencies.

The Debtors shall submit an order setting the continued Post-Confirmation Status Conference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

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to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Damu Vusha

Represented By  
Michael Jay Berger

**Joint Debtor(s):**

Akiba Vusha

Represented By  
Michael Jay Berger

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**2:18-11284 Damu Vusha and Akiba Vusha**

**Chapter 11**

**#12.00** Hearing  
RE: [178] Motion to Withdraw as Attorney

FR. 3-31-20

Docket 178

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL OF MOTION FILED 5-12-20**

**Tentative Ruling:**

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No appearances required. For the reasons set forth below, a continued Post-Confirmation Status Conference shall take place on **June 2, 2020, at 10:00 a.m.** The Motion to Withdraw is CONTINUED to be heard concurrently with the Post-Confirmation Status Conference. By no later than ten days prior to the continued hearing, the Debtors and Counsel shall meet and confer to try and settle any disagreements.

**Pleadings Filed and Reviewed:**

- 1) Chapter 11 Post-Confirmation Status Report [Doc. No. 180] (the "Status Report")
- 2) Motion to Withdraw as Reorganized Debtors' Bankruptcy Counsel [Doc. No. 178] (the "Motion to Withdraw")
- 3) Notice of Motion [Doc. No. 179]
- 4) As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Damu and Akiba Vusha (the "Debtors") filed a voluntary chapter 11 case on February 5, 2018. On March 9, 2018, the Court granted the Debtors' application to employ the Law Offices of Michael Jay Berger ("Counsel") as their general bankruptcy



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counsel [Doc. No. 35]. On November 27, 2019, the Court entered an *Order Granting Motion to Confirm Debtors' Amended Chapter 11 Plan of Reorganization* [Doc. No. 161] (the "Confirmation Order"). The first Post-Confirmation Status Conference was initially set for March 18, 2020, but the Court *sua sponte* continued the hearing to March 31, 2020, to be heard concurrently with the Motion to Withdraw.

**The Status Report**

The Debtors, through Counsel, filed the *Chapter 11 Post-Confirmation Status Report* on March 4, 2020 [Doc. No. 180] (the "Status Report"). Based on the Status Report, as of March 2020, the Debtors have accrued a deficiency on most outstanding plan payments, which include all payments on administrative claims and U.S. Trustee fees, as well as a sizeable amount due to the classes of secured, priority, and general unsecured creditors. *See* Status Report at 2-6 (providing an itemized status update on each outstanding payment). The Debtors are current on post-confirmation taxes. The Debtors claim that their ability to stay current on plan payments was compromised by approximately \$5,000 in medical costs incurred in February 2020, which were precipitated by unexpected "health-related issues" affecting Debtors and one of the Debtors' mother. Status Report at 7. However, the Debtors project that their income stream will stabilize going forward. The Debtors plan to cure payment deficiencies by selling their rental property located at 1300 W. 69th Street, Los Angeles, CA 90044 (the "Property"), which they posted for sale on March 4, 2020. The Status Report further states that the Plan is expected to be consummated by January 2025, and the Debtors will request a final decree closing the case on an interim basis on or before June 30, 2020. As of the preparation of this tentative ruling, the Debtors have not responded to the Status Report on an individual basis.

**The Motion to Withdraw**

On February 7, 2020, Counsel filed an application for an abstract of judgment against the Debtors for unpaid attorney's fees in the sum of \$14,839.13 [Doc. No. 174]. Thereafter, on March 4, 2020, Counsel filed a motion to withdraw as counsel (the "Motion to Withdraw"), given the Debtors' failure to pay estate professionals' outstanding bills, cooperate in the prosecution of their case, and due to the irreparable deterioration of Counsel's relationship with his clients. Counsel states that it cannot elaborate on the particular details concerning the troubled relationship but asserts that the Debtors' have refused to assist Counsel in the case and have breached provisions of the Counsel's fee agreement.

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**Chapter 11**

As of the preparation of this tentative ruling, the Debtors have not filed an opposition to the Motion to Withdraw.

## **II. Findings and Conclusions**

No appearances required. This is a post-confirmation status conference. Based on its review of the Motion to Withdraw and the Status Report, and in light of the recent COVID-19 outbreak, the Court CONTINUES the status conference to **June 2, 2020, at 10:00 a.m.** The Debtors must submit a further Post-Confirmation Status Report (the "Second Status Report") by no later than fourteen days prior to the hearing. The Second Status Report should inform the Court about the status of the sale of the Property, and whether the Debtors were capable of making timely plan payments due on or after March 31, 2020. The Motion to Withdraw is CONTINUED to **June 2, 2020, at 10:00 a.m.**, to be heard concurrently with the continued Post-Confirmation Status Conference. By no later than ten days prior to the continued hearing, the Debtors and Counsel shall meet and confer to try and settle any disagreements.

The Court will prepare the order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188, no later than one hour before the hearing.

### **Party Information**

**Debtor(s):**

Damu Vusha

Represented By  
Michael Jay Berger

**Joint Debtor(s):**

Akiba Vusha

Represented By  
Michael Jay Berger

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**2:15-21374 Maria Del Carmen Linares**

**Chapter 7**

**#100.00** Hearing  
RE: [59] Motion to Pay Claims Free and Clear of Purported Medical Liens;  
Declarations of David M. Goodrich and Caroline R. Djang (Djang, Caroline)

Docket 59

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-4-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Maria Del Carmen Linares

Represented By  
Caroline Djang

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Caroline Djang

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**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12927 Charles Haines**

**Chapter 7**

**#1.00 Show Cause Hearing**  
RE: [16] Requiring Debtor To Appear And Show Cause Why Case Should Not Be Dismissed Or Converted For Failure To Submit Declaration Re Untimely Credit Counseling Certificate

Docket 16

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 5-28-20**

**Tentative Ruling:**

- NONE LISTED -

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

Charles Haines

Pro Se

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing re Assumption Objection Re: SETON Asserted by Blue Shield [Doc. No. 4748]  
fr. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#3.00** Hearing re Assumption Objection Re: SETON Asserted by Aetna Life Ins. Co. [Doc. No. 4675]  
fr. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00** Hearing re Assumption Objection Re: SETON Asserted by Microsoft Corp. [Doc. No. 4677]

FR. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** Hearing re Assumption Objection Re: SETON Asserted by UnitedHealthcare Ins. Co. [Doc. No. 4678]

FR. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** Hearing re Assumption Objection Re: SETON Asserted by Health Net of California, Inc. [Doc. No. 4681]  
FR. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#7.00** Hearing re Assumption Objection Re: SETON Asserted by Kaiser Foundation Hospitals [Doc. No. 4682]  
FR. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#8.00** Hearing re Assumption Objection Re: SETON Asserted by Parallon Revenue Cycle Services, Inc. [Doc. No. 4686]

FR. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#9.00** Hearing re Assumption Objection Re: SETON Asserted by Hooper Healthcare Consulting, LLC [Doc. No. 4690]

FR. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#10.00** Hearing re Assumption Objection Re: SETON Asserted by Health Plan of San Mateo [Doc. No.4692]  
FR. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#11.00** Hearing re Assumption Objection Re: SETON Asserted by Anupam Aditi M.D. [Doc. No. 4693]  
FR. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#12.00** Hearing re Assumption Objection Re: SETON Asserted by Cigna Entities [Doc. No. 4688]

FR. 5-20-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#13.00** Hearing re Assumption Objection Re: SETON Asserted by Abbott Laboratories Inc. and Abbott Rapid Dagnostics Informatics, Inc. [Doc. No. 4728]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#14.00** Hearing re Assumption Objection Re: SETON Asserted by GE HFS, LLC [Doc. No. 4731]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#15.00** Hearing re Assumption Objection Re: SETON Asserted by Smith & Nephew, Inc. [Doc. No. 4733].

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#16.00** Hearing re Assumption Objection Re: SETON Asserted by NFS Leasing Inc. [Doc. No. 4749]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#17.00** Hearing re Assumption Objection Re: SETON Asserted by AT&T Corp., AT&T Services, Inc., and Affiliates [Doc. No. 4745]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#17.10** Hearing re Assumption Objection Re: Seton Asserted by 3M Corp. [Doc. No. 4736]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#18.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by UnitedHealthcare Ins. Co. [Doc. No. 4354]

FR. 4-9-20; 4-29-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#19.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Kaiser Foundation Hospitals [Doc.No. 4422]

FR. 4-9-20; 4-29-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#20.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Angeles IPA Medical Group [Doc. No. 4425]

FR. 4-9-20; 4-29-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#21.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by GE HFS LLC [Doc. No. 4371]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#22.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Hooper Healthcare Consulting LLC.  
[Doc. No. 4392]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#23.00** Assumption Objection Re: ST. FRANCIS Asserted by Microsoft Corp. and Microsoft Licensing, GP  
[Doc. No. 4405]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#24.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Abbott Laboratories Inc. and Abbott Rapid Diagnostics Informatics, Inc. fka Alere Informatics, Inc. [Doc. No. 4409]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#25.00** Hearing re: Assumption Objection Re: ST. FRANCIS Asserted by SCAN Health Plan [Doc. No. 4414]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#26.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Smith & Nephew, Inc. [Doc. No. 4416]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#27.00**

Hearing re Assumption Objection Re: ST. FRANCIS Asserted by HealthNet of California, Inc. [Doc. No. 4419]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#28.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by California Physicians Service dbaBlue Shield of California [Doc. No. 4421]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#29.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Humana Ins. Co. and Humana Health Plan, Inc. [Doc. No. 4423]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#30.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Blue Shield of California Promise Health Plan fka Care 1st Health Plan [Doc. No. 4420]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#31.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Cardinal Health 200, LLC [Doc No.4418]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#32.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Cerner Corp. [Doc. No. 4415]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#33.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Roche Diagnostics Corp. [Doc. No. 4406]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Wednesday, June 3, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#34.00 Hearing re Assumption Objection Re: ST. FRANCIS Asserted by MedImpact Healthcare Systems, Inc.[Doc. No. 4408]

fr. 4-9-20; 4-29-20

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#35.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Aetna Life Ins. Co. [Doc. No. 4403]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#36.00**

Hearing re Assumption Objection Re: ST. FRANCIS Asserted by AppleCareMedical Group, Inc., AppleCare Medical Group ST. FRANCIS Inc., and AppleCare Medical Management LLC [Doc. No. 4391]

fr. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#37.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Long Beach Memorial Medical [Doc. No. 4427]

FR. 4-9-20; 4-29-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, June 3, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#38.00 Hearing re Assumption Objection Re: ST. FRANCIS Asserted by A&T Corp. and AT&T Services, Inc.[Doc. No. 4424]

FR. 4-9-20; 4-29-20

Docket 4443

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#39.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by DaVita Inc. [Doc. No. 4407]

FR. 4-9-20; 4-29-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#40.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by PIH Health Hospital Downey and PIH Health Hospital Whittier [Doc. No. 4443]

fr. 4-9-20; 4-29-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#41.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Parallon Revenue Cycle Services, Inc.  
fka The Outsource Group, Inc. [Doc. No. 4469]

**FR. 4-9-20;** 4-29-20

Docket 4443

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#42.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Cigna Entities [Doc. No. 4366]

FR. 4-9-20; 4-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#43.00** Hearing  
RE: [4741] Motion to Reject Lease or Executory Contract /Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with SEIU; Declarations Of Richard G. Adcock and Steven Sharrer in Support Thereof

Docket 4741

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-10-2020 AT 10:00 A.M.**

**Tentative Ruling:**

6/2/2020

Order entered. Hearing continued to **June 10, 2020, at 10:00 a.m.** pursuant to stipulation.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#44.00** Hearing  
RE: [4742] Motion to Reject Lease or Executory Contract /Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with UNAC; Declarations of Richard G. Adcock and Steven Sharrer in Support Thereof

Docket 4742

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-10-2020 AT 10:00 A.M.**

**Tentative Ruling:**

6/2/2020

Order entered. Hearing continued to **June 10, 2020, at 10:00 a.m.** pursuant to stipulation.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-16478 Rambutan Thai, a California corporation**

**Chapter 11**

**#45.00 Hearing  
RE Amended Disclosure Statement**

Docket 53

**Tentative Ruling:**

6/2/2020

See Cal. No. 46, incorporated in full by reference.

3/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, approval of the Disclosure Statement is DENIED. The Debtor is directed to file a first amended disclosure statement and plan by no later than **May 8, 2020** and self-calendar a hearing for **June 3, 2020 at 10:00 a.m.** Oppositions, if any, are due by **May 20, 2020**. The deadline for the Debtor to file a reply to any timely oppositions is **May 27, 2020**.

**Pleadings Filed and Reviewed**

1. Original Disclosure Statement Describing Original Chapter 11 Plan [Doc. No. 53] (the "Disclosure Statement")
2. Original Chapter 11 Plan [Doc. No. 54] (the "Plan")
3. Notice of Hearing on Disclosure Statement [Doc. No. 55] (the "Notice")
4. Amended Notice of Hearing on Disclosure Statement [Doc. No. 54] (the "Amended

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Los Angeles  
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**CONT... Rambutan Thai, a California corporation**

**Chapter 11**

Notice")

5. As of the preparation of this tentative ruling, no opposition is on file

### **I. Facts and Summary of Pleadings**

Debtor-in-possession, Rambutan Thai (the "Debtor"), commenced this voluntary chapter 11 case on June 1, 2019 (the "Petition Date"). The Debtor is a California corporation owned by Khwannappa Noochloor ("Noochloor"), Kulvadee Daniel ("Daniel"), and Taraporn Rattanamanee ("Rattanamanee") (collectively, the "Insiders"), each possessing a one-third interest in Debtor. The Debtor operates a Thai restaurant in the Silver Lake neighborhood, which conducts business as "Same Same Thai." Based on the Disclosure Statement, the Debtor's assets consist of cash flow revenue and a collection of fixed assets, consisting of furniture, equipment, and food inventory. The Debtor's chapter 11 filing was precipitated by an assessment of unpaid sales taxes of approximately \$233,000 by the California Department of Tax and Fee Administration ("CDTFA"). The Debtor seeks bankruptcy relief to restructure its outstanding tax debt, and other claims, with minimal disruption to its business operations. To assist in its reorganization, the Debtor secured the services of Jeffrey S. Shinbrot, APLC ("Debtor's Counsel"), as general bankruptcy counsel, and Grobstein Teeple, LLC ("Debtor's Accountant"), as estate accountant.

The Debtor presently seeks an order approving the adequacy of its Disclosure Statement. The Disclosure Statement details the events discussed above which led to this bankruptcy filing and provides a description of significant post-petition events. The Plan proposes the following classification scheme and treatments:

#### *Administrative Claims*

The Debtor anticipates that administrative fees for professionals will be approximately \$30,000, of which \$15,000 will be sought by Debtor's Counsel, and \$15,000 by Debtor's Accountant. The Debtor proposes to pay all administrative claims on the effective date of the Plan, which shall be 30 days after entry of an order approving the Plan (the "Effective Date").

#### *Priority Tax Claims*

The Internal Revenue Service ("IRS") and the CDTFA hold priority tax claims against the Debtor. The Debtor proposes to pay the priority portion of the IRS's claim totaling \$1,222.31 in full on the Effective, while an unsecured portion of \$14,958.49 will be compensated pursuant to the proposed treatment of the unsecured creditor class.

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**CONT... Rambutan Thai, a California corporation**

**Chapter 11**

The CDTFA's claim of \$255,549 shall be paid in four equal, periodic installments of \$63,887.35 on December 31, 2020, September 30, 2021, June 30, 2022, and March 31, 2023.

*Class 1 – General Unsecured Claims*

Class 1 consists of all allowed general unsecured claims, which the Debtor estimates hold aggregate claims in the amount of \$17,664. *See* Disclosure Statement at 9. The Debtor proposes to pay this class approximately 42.4% of their claims, without interest, by paying each creditor in this class a one-time, pro-rated share of \$7,500, 45 days after the Effective Date. This class is impaired and entitled to vote on the Plan.

*Class 2 – Class of Interest Holders*

This class consists of the Insiders' ownership interest in the Debtor. The Plan contemplates that the Insiders will retain their equity interests in the Debtor. In return for maintaining ownership interests, the Plan calls for the Insiders to collectively make a single new value contribution of \$7,500. This class is not impaired and may not vote on the Plan.

*Means of Implementation*

Based on the figures provided in the Disclosure Statement, the Debtor's Plan will be funded from available cash totaling \$77,500, consisting of the following sources:

- i. Approximately \$62,000 cash on hand Debtor will have in its DIP account on the Effective Date.
- ii. Additional estimated funds of \$8,000 that will accumulate from projected net revenue between now and the Effective Date.
- iii. A one-time \$7,500 new value contribution from the Insiders, each Insider paying an amount proportionate to their ownership interest in the Debtor.
- iv. Future disposable income over the next 5 years. Based on cash flow projections, the Debtor anticipates having sufficient income to cover all proposed plan payments. *See* Disclosure Statement, Ex. C.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Section 1125 requires a disclosure statement to contain "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 . . . that would enable. . . a

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Los Angeles  
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**CONT... Rambutan Thai, a California corporation**

**Chapter 11**

hypothetical investor of the relevant class to make an informed judgment about the plan.” 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.” 11 U.S.C. § 1125(a). Courts interpreting § 1125(a) have explained that the “primary purpose of a disclosure statement is to give the creditors the information they need to decide whether to accept the plan.” *In re Monnier Bros.*, 755 F.2d 1336, 1342 (8th Cir. 1985). “According to the legislative history, the parameters of what constitutes adequate information are intended to be flexible.” *In re Diversified Investors Fund XVII*, 91 B.R. 559, 560 (Bankr. C.D. Cal. 1988). “Adequate information will be determined by the facts and circumstances of each case.” *Oneida Motor Freight, Inc. v. United Jersey Bank*, 848 F.2d 414, 417 (3d Cir. 1988), *accord. In re Ariz. Fast Foods, Inc.*, 299 B.R. 589 (Bankr. D. Ariz. 2003).

Relevant factors for evaluating the adequacy of a disclosure statement may include: (1) the events which led to the filing of a bankruptcy petition; (2) a description of the available assets and their value; (3) the anticipated future of the company; (4) the source of information stated in the disclosure statement; (5) a disclaimer; (6) the present condition of the debtor while in Chapter 11; (7) the scheduled claims; (8) the estimated return to creditors under a Chapter 7 liquidation; (9) the accounting method utilized to produce financial information and the name of the accountants responsible for such information; (10) the future management of the debtor; (11) the Chapter 11 plan or a summary thereof; (12) the estimated administrative expenses, including attorneys' and accountants' fees; (13) the collectability of accounts receivable; (14) financial information, data, valuations or projections relevant to the creditors' decision to accept or reject the Chapter 11 plan; (15) information relevant to the risks posed to creditors under the plan; (16) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers; (17) litigation likely to arise in a nonbankruptcy context; (18) tax attributes of the debtor; and (19) the relationship of the debtor with affiliates.

*In re Metrocraft Pub. Services, Inc.*, 39 B.R. 567, 568 (Bankr. Ga. 1984). However, “[d]isclosure of all factors is not necessary in every case.” *Id.*

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Los Angeles  
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**CONT... Rambutan Thai, a California corporation**

**Chapter 11**

The Debtor's Disclosure Statement provides inadequate information with respect to the following issues. First and foremost, the Court is cognizant that the Debtor's Disclosure Statement was prepared prior to the current market realities attendant with the COVID-19 pandemic. Specifically, the Court is concerned by the financial impact reasonably expected on Debtor's restaurant operations. For that reason, the information disseminated in the Disclosure Statement with respect to Debtor's projected cash flows, present financial condition, and other information relevant to the Plan's feasibility is likely outdated and inadequately describes creditors' risk under the Plan. Without an adequate discussion on Debtor's current status, creditors will not possess the necessary information to evaluate whether or not to accept the Plan. This is important because Debtor's successful reorganization requires that a sufficient number of Class 1 creditors approve the Plan. In view of the foregoing, the Debtor shall file an amended disclosure statement and plan that addresses the Debtor's current and projected finances. To the extent that Debtor's financial condition is compromised by the COVID-19 outbreak, the Debtor is instructed to supplement Section III.E of the Disclosure Statement, which pertains to the Plan's risk factors. *See* Disclosure Statement at 11.

Additionally, the amended disclosure statement and plan must also address the following issues:

- Pursuant to Bankruptcy Rule 2002, the debtor, creditors, equity security holders, and other parties in interest must have 28 days' notice of a hearing on the approval of a disclosure statement. Here, both the Notice and the Amended Notice indicate that the Debtor failed to serve any papers on two unsecured creditors holding sizeable, although disputed, claims: Credit Collection Bureau and McCarthy, Burgess & Wolf. All other creditors holding claims identified as disputed, contingent, or unliquidated were served. *See* Doc. Nos. 55 & 57.
- The Disclosure Statement provides differing total dollar figures for allowed unsecured claims in different sections. On page 9 of the Disclosure Statement, the Debtor states that the total amount of allowed unsecured claims is \$17,664, while the unsecured claim tally contained in the "List of General Unsecured Claims" is \$18,144.56, excepting all disputed unsecured claims. *Compare* Disclosure Statement at 9 *with* Disclosure Statement, Ex. B. If this higher dollar figure is accurate, then unsecured creditors will stand to receive a lower pro-rated distribution than as indicated on the Disclosure Statement.
- The Debtor's liquidation analysis contains an inaccurate calculation of "TOTAL

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**Rambutan Thai, a California corporation**

**Chapter 11**

ASSETS" because this figure does not consider the amount of "TOTAL CURRENT ASSETS," only "TOTAL FIXED ASSETS". See Disclosure Statement at 17.

- The periodic installment the Debtor proposes to pay CDTFA (\$63,887.35) under the Disclosure Statement differs from the distribution allocated in the 5-year projection (\$58,144). See Disclosure Statement, Ex. C.

For the reasons set forth above, the Court cannot approve the Disclosure Statement until the Debtor cures the aforementioned issues in an amended disclosure statement and plan.

Furthermore, although the following is a plan confirmation issue, the Court notes that the Plan proposes that the Insiders will retain their ownership interest in the Debtor, while paying general unsecured creditors approximately 42% of their claims, without interest, in exchange for a single \$7,500 new value contribution. Accordingly, the Debtor should be prepared to explain how the Plan's proposal—permitting the Insiders to retain an interest in the reorganized Debtor on account of their junior interests—satisfies the minimum requirements for new value contributions set forth in *Bank of America v. 203 North LaSalle Street Partnership*, 526 U.S. 434 (1999), required for plan confirmation.

### **III. Conclusion**

Based on the foregoing, approval of the Disclosure Statement is DENIED. The Debtor is directed to file a first amended disclosure statement and plan by no later than **May 8, 2020** and self-calendar a hearing for **June 3, 2020 at 10:00 a.m.** Oppositions, if any, are due by **May 20, 2020**. The deadline for the Debtor to file a reply to any timely filed oppositions is **May 27, 2020**.

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 3, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Rambutan Thai, a California corporation**

**Chapter 11**

**Party Information**

**Debtor(s):**

Rambutan Thai, a California

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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10:00 AM

**2:19-16478 Rambutan Thai, a California corporation**

**Chapter 11**

**#46.00** HearingRE: [66] Motion to Dismiss Debtor Notice of Motion For Motion For an Order Dismissing Chapter 11 Case; Memorandum of Points and Authorities and Declaration of Khwannapa Noochlaor Support Thereof with Proof of Service

Docket 66

**Tentative Ruling:**

6/2/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED, and the case is dismissed. The hearing on the Debtor's amended disclosure statement is VACATED in view of the dismissal.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for an Order Dismissing Chapter 11 Case [Doc. No. 66] (the "Motion")
2. Order Denying Original Disclosure Statement Describing Original Chapter 11 Plan and Setting Related Deadlines [Doc. No. 63]
3. As of the preparation of this tentative ruling, no response or opposition is on file

**I. Facts and Summary of Pleadings**

Debtor-in-possession, Rambutan Thai (the "Debtor"), commenced this voluntary chapter 11 case on June 1, 2019 (the "Petition Date"). The Debtor is a California corporation owned by Khwannappa Noochloor, Kulvadee Daniel, and Taraporn Rattanamanee, each possessing a one-third interest in the Debtor. The Debtor operates a Thai restaurant in the Silver Lake neighborhood, which conducts business as "Same Same Thai." The Debtor's chapter 11 filing was precipitated by an assessment of unpaid sales taxes of approximately \$350,000 by the California Department of Tax and Fee



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**CONT... Rambutan Thai, a California corporation Chapter 11**

Administration ("CDTFA"). The Debtor states that it filed the instant chapter 11 case to restructure its outstanding tax assessment, and other unsecured claims, with minimal disruption to business operations. Due to the business restrictions associated with the ongoing healthcare crisis, the Debtor's dining facilities were closed to the public on or about March 12, 2020. However, the Debtor's operations remain open for food delivery and pick-up services. Notwithstanding the unexpected interruptions caused by COVID-19, the Debtor claims that it has retained many of its non-insider employees, albeit with reduced work hours.

On April 3, 2020, the Court entered an order denying approval of the original disclosure statement, but permitted Debtor to file an amended disclosure statement to address various issues [Doc. No. 66] (the "April 3 Order"). More specifically, the Court determined that the original disclosure statement was inadequate because, *inter alia*:

The Debtor's Disclosure Statement provides inadequate information with respect to the following issues. First and foremost, the Court is cognizant that the Debtor's Disclosure Statement was prepared prior to the current market realities attendant with the COVID-19 pandemic. Specifically, the Court is concerned by the financial impact reasonably expected on Debtor's restaurant operations. For that reason, the information disseminated in the Disclosure Statement with respect to Debtor's projected cash flows, present financial condition, and other information relevant to the Plan's feasibility is likely outdated and inadequately describes creditors' risk under the Plan. Without an adequate discussion on Debtor's current status, creditors will not possess the necessary information to evaluate whether or not to accept the Plan. This is important because Debtor's successful reorganization requires that a sufficient number of Class 1 creditors approve the Plan. In view of the foregoing, the Debtor shall file an amended disclosure statement and plan that addresses the Debtor's current and projected finances. To the extent that Debtor's financial condition is compromised by the COVID-19 outbreak, the Debtor is instructed to supplement Section III.E of the Disclosure Statement, which pertains to the Plan's risk factors. *See* Disclosure Statement at 11.

Court's Final Ruling on Debtor's Disclosure Statement [Doc. No. 61] at 5.

In response to the Court's ruling, the Debtor advises that it has worked closely with bankruptcy counsel and financial advisors, but it cannot reasonably ascertain the

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financial impact of COVID-19 restrictions on its current and future business operations. Additionally, the Debtor states that while it has qualified for a \$10,000 loan from the SBA Economic Injury Disaster Loan Emergency Advance program, it is not eligible to receive funding from the Payment Protection Program. However, even if Debtor were to receive the maximum dollar amount of emergency-based relief, such entitlements would be reserved for payroll and rent and would not improve Debtor's reorganization efforts. Declaration of Khwannapa Noochlaor ("Noochlaor Decl."), ¶ 6. Based on the foregoing uncertainty created by the pandemic, the Debtor posits that the best interests of the estate and creditors will be better served by the dismissal of this case, rather than by filing an amended disclosure statement. Instead of pursuing its reorganization, the Debtor intends to continue operations and gather information on the impact of the pandemic on its business. Noochlaor Decl., ¶ 7.

In support of the Motion, the Debtor argues that chapter 11 dismissal is appropriate where the facts indicate that a debtor-in-possession will be unable to effectuate a plan of reorganization. *See* Motion at 6-7. The Debtor further cites to *In re Sanders*, 2013 WL 1490971 at \*7 (B.A.P. 9th Cir. 2013) for the proposition that "[a]dministrative insolvency has been held by the Ninth Circuit B.A.P. to be sufficient 'cause' under 1112(b) for this Court to choose dismissal over conversion." *Id.* at 7. But for the current healthcare crisis, the Debtor asserts that it would be close to achieving its chapter 11 reorganization. However, as summarized above, the Debtor advances that dismissal will best benefit the estate and its creditors. Additionally, the Debtor argues that a chapter 7 conversion would be incredibly harmful to Debtor's employees and to the community that relies on its continued food delivery and pick-up services.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Under § 1112(b), the Court shall dismiss or convert a case to one under chapter 7 upon a showing of cause. A "[d]ebtor's request [to voluntarily dismiss a Chapter 11 bankruptcy case] should ordinarily be granted unless some 'plain legal prejudice' will result to creditors." *In re Kimble*, 96 B.R. 305, 308 (Bankr. D. Mont. 1988), *quoting In re Geller*, 74 B.R. 685, 688-689 (Bankr. E.D. Pa. 1987); *In re Hall*, 15 B.R. 913, 915-916 (9th Cir. BAP 1981). The Court finds that the Debtor has standing to bring a motion to dismiss, since it is a "party in interest" 11 U.S.C. § 1109(b). A bankruptcy court possesses broad discretion in determining whether to dismiss or convert a chapter

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11 case for "cause." See *In re Sanders*, 2013 WL 1490971 at \*6 (citing *In re Consol. Pioneer Mortg. Entities*, 248 B.R. 368, 375 (B.A.P. 9th Cir. 2000), aff'd, 264 F.3d 803 (9th Cir. 2001)). Pursuant to § 1112(b)(4), "cause" for dismissal includes "a substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation."

Here, dismissal best serves the interest of the creditors and the estate. Having reviewed the Motion and the declaration of Mr. Noochlaor, the Debtor's president, the Court finds that the pandemic has inflicted a significant—and understandably unpredictable—impact on the Debtor's business operations. For instance, Mr. Noochlaor attests that while only one employee has been furloughed at this time, the work hours of remaining employees have been reduced to between 10% and 50% of their pre-lockdown work schedule. Noochlaor Decl., ¶ 4. Furthermore, even if it can maximize the dollar amount of allowable federal emergency relief, the Debtor is unlikely to submit a disclosure statement that this Court can approve and its likelihood of reorganization remains unclear. See *id.*, ¶ 6. On the record before it, the Court further finds that no purpose would be served by converting this case to a case under chapter 7. Based upon the foregoing, the Court finds it is in the best interests of creditors and the estate to dismiss this case. Moreover, there being no objection to the Motion, the Court presumes interested parties consent to the granting of the requested relief pursuant to LBR 9013-1(h).

Finally, there being no other matters pending in this case, the Court will only retain jurisdiction to consider approval and payment of professional fees and outstanding administrative expenses. [Note 1]

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED, and the case is dismissed. The hearing on the Debtor's amended disclosure statement is VACATED in view of the dismissal.

The Debtor is directed to lodge a proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at

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213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The April 3 Order directed the Debtor to file an amended disclosure statement and plan, which would have been considered on June 3, 2020. The hearing on the Debtor's amended disclosure statement is moot in view of the dismissal.

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

Rambutan Thai, a California

Represented By  
Jeffrey S Shinbrot

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**2:20-13772 1636 Haslam 888 LLC**

**Chapter 7**

**#1.00** HearingRE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1636 Haslam Terrace, Los Angeles, California 90069 with Request for Extraordinary Relief Under 362 (d)(4).

Docket 12

**Tentative Ruling:**

6/4/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay, under §§ 362(d)(1), (d)(2), and (d)(4), has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

On April 20, 2020, 1636 Haslam 888, LLC (the "Debtor") filed a second voluntary chapter 7 petition in the span of approximately one month. Having filed the former case on a *pro se* basis, and in contravention of legal precedent and local bankruptcy rules, the Debtor's first chapter 7 case was dismissed based on its failure to timely submit mandatory commencement documents. *See In re 1636 Haslam 888, LLC*, 2:20-bk-13203-ER, Doc. No. 16. An OSC hearing concerning the Debtor's lack of legal representation was vacated due to the dismissal. Like the prior case, the Debtor initiated the instant case without legal representation. **[Note 1]**.

On or about October 10, 2018, the Debtor and MBSRU, Inc. (the "Movant") entered into a security agreement, pursuant to which the Debtor agreed to pay Movant the principal amount of \$1,150,000, plus interest (the "Promissory Note"). *See*

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**Chapter 7**

Declaration of Joni Helmick [Doc. No. 12] ("Holmick Decl."), ¶ 8, Ex. 3. The Promissory Note was secured by a first-position deed of trust in favor of Movant, encumbering real property located at 1636 Haslam Terrace, Los Angeles, California, 90069 (the "Property"). Ruben Trejo ("Trejo"), a managing member of the Debtor, executed the Promissory Note and other related documents. *See* Holmick Decl., Ex. 4. [Note 2]. As set forth on Exhibit 6 of the Motion, the Debtor, acting through Trejo, executed a grant deed, purportedly transferring the Property, in full and as a "bonafide gift," to Maria C. Vargas-Rodriguez, trustee of the Maria C. Vargas-Rodriguez Trust No. 1 ("Vargas"). The Vargas grant deed, dated August 28, 2019, was evidently recorded on March 3, 2020. *See* Holmick Decl., Ex. 6. A trustee's title search that Movant ordered in preparation of a foreclosure sale revealed that Vargas asserts a junior interest in the Property for \$1,390,000. *See* Supplemental Declaration of Joni Holmick, ¶ 5; Ex. 5. Notwithstanding the Vargas conveyance, the Debtor's commencement documents indicate that Debtor still possesses an interest in the Property. *See* Doc. No. 1.

As an initial matter, the Court finds that there is good cause to grant Movant relief under 11 U.S.C. §§ 362(d)(1) and (d)(2). Based on *Schedule D*, the Property has a value of \$1,420,000 (Exhibit 2) and is subject to a perfected deed of trust in favor of the Movant in the sum of \$1,328,067.73 and expected sale costs of \$113,600 (Holmick Decl., ¶ 11(e)). Accordingly, the value of the equity cushion in the Property exceeding Movant's debt is -\$21,667.73, which is -15.2% of the Property's fair market value. Therefore, the Movant's interest in the Property is not adequately protected and stay-relief under § 362(d)(1) is appropriate. *Pistole v. Mellor (In re Mellor)*, 734 F.2d 1396, 1401 (9th Cir. 1984); *see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.)*, 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). Further, the liens against the Property and the expected costs of sale total approximately \$2,831,667.73. Even if the Court were to accept the Debtor's position that it possesses an interest in the Property, the Court finds that the Debtor has no equity, the Property is not necessary for the Debtor's reorganization, and there is no evidence that the trustee can administer the Property for the benefit of creditors. Hence, stay-relief is also warranted under § 362(d)(2).

Additionally, the Court finds that there are facts presented in the Motion sufficient for the Court to find bad faith pursuant to § 362(d)(4). First, the Debtor listed Movant as one of two creditors in its commencement documents but failed to reference the Vargas' junior lien therein. *See* Holmick Decl., Ex. 5; *see* Doc. No. 1. Second, the

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purported conveyance to Vargas was effectuated through an unauthorized grant deed, without Movant's consent or knowledge. *See* Supplemental Declaration, ¶ 5. Third, the Debtor has filed at least one prior bankruptcy case, implicating an interest in the Property, which was summarily dismissed for its failure to comply with basic filing requirements. Therefore, the Court finds that this petition was part of a scheme to delay, hinder, and defraud creditors, which involved the transfer of all or part ownership of, or other interest in, the Property without the consent of Movant or court approval and multiple bankruptcy cases affecting the Property. Based upon the reasons set forth above, the Motion is also granted under § 362(d)(1) for cause based on Debtor's bad faith filing.

The Motion is GRANTED to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property, or to enter into a potential forbearance or loan modification agreement in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, the order shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the Court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. All other relief is denied.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

**Note 1:** An OSC hearing based upon the Debtor's lack of legal representation is currently scheduled for June 30, 2020 [Doc. No. 14].

**Note 2:** The commencement documents filed as part of the instant bankruptcy case were allegedly prepared and submitted by Alejandro Cardenas, a managing member of the Debtor. *See* Doc. No. 1.

**Party Information**

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**Chapter 7**

**Debtor(s):**

1636 Haslam 888 LLC

Pro Se

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se



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**2:20-13831 Canaan Holdings, LLC**

**Chapter 7**

**#2.00** Hearing  
RE: [17] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1711 Morton Avenue, Los Angeles, CA 90026 .

Docket 17

**\*\*\* VACATED \*\*\* REASON: CASE REASSIGNED TO JUDGE  
ZURZOLO**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Canaan Holdings, LLC

Represented By  
Todd J Cleary

**Trustee(s):**

Jason M Rund (TR)

Pro Se

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**Hearing Room 1568**

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**2:20-14028 Steven Jay Sugar**

**Chapter 7**

**#3.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 MERCEDES-BENZ GLC300W, VIN WDC0G4JB7KV137181 . (Ith, Sheryl)

Docket 8

**Tentative Ruling:**

6/4/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the

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Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Steven Jay Sugar

Represented By  
Roland H Kedikian

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

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**2:19-24805 LCI Group Limited LLC**

**Chapter 11**

**#1.00** HearingRE: [24] Motion LCI Group Limited LLC's Motion to Extend the Deadlines Set by This Court in Its January 28, 2020 Order Denying Motion for Relief from the Automatic Stay Under 11 U.S.C. Section 362 [Docket no.: 19] Declarations of Larry Underwood, Keith Kelly and Michael Jay Berger in Support Thereof

Docket 24

**Tentative Ruling:**

6/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is DENIED. The January 28 Order still stands, subject to the parties' stipulation.

**Pleadings Filed and Reviewed**

- 1) Order Denying Motion for Relief from the Automatic Stay under 11 U.S.C. § 362 [Doc. No. 19] (the "January 28 Order")
- 2) LCI Group Limited LLC's Motion to Extend the Deadlines Set by the Court in its January 28, 2020 Order [Doc. No. 24] (the "Motion")
  - a) Declaration of Lawrence Underwood
  - b) Declaration of Keith Kelley
  - c) Declaration of Michael Jay Berger
- 3) Opposition of So-Cal Capital, Inc. to Debtor's Motion to Extend Deadlines Set by this Court in its January 28, 2020 Order [Doc. No. 28] ("Opposition")
- 4) LCI Group Limited LLC's Reply to the Opposition [Doc. No. 29] (the "Reply")

**I. Facts and Summary of Pleadings**

LCI Group Limited, LLC (the "Debtor") filed a voluntary chapter 11 petition on December 19, 2019 (the "Petition Date") [Doc. No. 1]. The Debtor's only significant

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asset consists of an ownership interest in real property located at 15 Upper Blackwater Canyon Road, Rolling Hills, CA 90274 (the “Property”).

On Schedule D, the Debtor listed the secured claim of So-Cal Capital, LLC (the “Movant”), the holder of a first-priority deed of trust on the Property, in the amount of \$4,331,518. *See* Doc. No. 1. In addition to the Movant’s interest, the Los Angeles County Treasurer and Tax Collector and the Rolling Hills Community Association hold secured claims against the Property, in the amounts of \$61,918.18 and \$11,255.34 respectively, and the Internal Revenue Service asserts an unsecured priority claim totaling \$1,200. *See id.*; *see also* Claims Register. The Debtor’s bankruptcy was commenced to halt a foreclosure sale initiated by the Movant, given that the Debtor had not made payments on the Property since July 2019. Declaration of Lawrence Underwood [Doc. No. 24] (“Underwood Decl.”), ¶ 7.

On January 6, 2020, the Movant filed a motion for relief from the automatic stay, seeking to regain possession of the Property (the “Stay Relief Motion”). The Debtor opposed the Stay Relief Motion. On January 28, 2020, the Court denied the Stay Relief Motion, subject to certain conditions to be fulfilled by the Debtor (the “January 28 Order”). More specifically, the Court instructed the Debtor to obtain an order contemplating the sale of the Property by no later than June 15, 2020. Pursuant to the January 28 Order, the Debtor was required to close the sale of the Property by no later than July 15, 2020. The findings and conclusions with respect to the Stay Relief Motion may be found in the Court’s final ruling [Doc. No. 17], which the Court incorporates herein by reference.

**Summary of the Motion**

On May 15, 2020, the Debtor filed a *Motion to Extend the Deadlines Set by this Court in its January 28, 2020 Order Denying Motion for Relief from the Automatic Stay under 11 U.S.C. § 362* (the “Motion”). The Motion is supported by declarations submitted by the Debtor’s bankruptcy counsel, real estate broker, and Lawrence Underwood (“Underwood”), the Debtor’s managing member. In seeking an extension of the above-referenced deadlines (the “Deadlines”), the Debtor makes the following arguments and representations:

The Debtor requests at least a six-month extension of the Deadlines, in light of the stresses caused by COVID-19 on the luxury real estate market. Although the Debtor has “made every effort” to comply with the January 28 Order, the healthcare crisis has

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**CONT... LCI Group Limited LLC**

**Chapter 11**

made it impossible and unrealistic to comply with said order. The Debtor has worked closely with Keith Kelley (“Kelley”) of Palm Realty Boutique to aggressively market the Property, which is currently listed for sale at \$6,950,000, although initially valued between \$7,000,000 and \$7,950,000. The Debtor’s efforts to sell the Property include setting up “multiple showings per week prior to COVID-19,” and more recently making available a virtual tour and walkthrough videos of the Property. However, even with the availability of virtual showings, the reality is that potential buyers will not make an offer without inspecting the Property in person. Declaration of Keith Kelley (“Kelley Decl.”), ¶ 4. Although “several potential buyers” were interested in the Property at one point, including one businessman from China, the Debtor was not able to secure any offers. Underwood Decl., ¶ 8. Subsequent to the COVID-19 lockdown, a “potential buyer” cancelled a showing three weeks ago, and more recently, two showings took place last week. Kelley Decl., ¶ 4. Prior to filing the Motion, the Debtor attempted to enter into a stipulation with the Movant without success.

The request to postpone the Deadlines is only premised on the Court’s equitable powers under 11 U.S.C. § 105(a). Except for a Bankruptcy Appellate Panel decision that recites the provisions under § 105(a), the Debtor has not cited any authority supporting its proposed application of the Bankruptcy Code.

**Summary of the Opposition**

On May 26, 2020, the Movant submitted a timely response to the Motion [Doc. No. 28] (the “Opposition”). The Opposition is supported by the declaration of Patrick Lacy (“Lacy”), who is employed by the Movant and oversees servicing of Debtor’s loan to the Movant. Declaration of Patrick Lacy (“Lacy Decl.”), ¶ 1. The Movant advances the following points in opposition:

The Court should deny the Motion for three reasons: (1) the deadline to appeal the January 28 Order has elapsed; (2) there is no cause to reconsider the January 28 Order; and (3) and any such extension of the Deadlines would cause disproportionate harm to the Movant. First, as determined in *Ritzen Grp., Inc. v. Jackson Masonry, LLC*, 140 S. Ct. 582 (2020), a stay relief order constitutes a “final, appealable order.” Moreover, pursuant to Fed. R. Bank. P. 8002, a notice of appeal must be filed with the bankruptcy clerk within 14 days of the order being appealed. Accordingly, the Debtor failed to file an appeal of the January 28 Order by the deadline of February 11, 2020. Second, the Debtor presents no authority for its argument that the Court may rely on § 105(a) to reconsider the January 28 Order. Additionally, a review of the supporting declarations indicates that the Debtor’s marketing efforts have only generated four

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showings—two pre-shutdown and two post-shutdown—and elicited no offers. Based on Lacy’s declaration, Kelley, along with co-broker Gordon Inman, have participated in four of the eight post-COVID-19 real estate sales in the Rolling Hills Area. *See* Lacy Decl., ¶ 4. For instance, the residence located at 8 Upper Blackwater Canyon Road, Rolling Hills, CA (“8 Upper Blackwater Canyon Road”), one block away from the Property, was sold on or about May 12, 2020 for \$4,720,000, following a significant price drop. Lacy Decl., ¶¶ 4-5, Ex. C (MLS Listing for 8 Upper Blackwater Canyon Road). This motion is another “empty promise” by the Debtor to enable Underwood to live rent-free in luxury. Notably, in an e-mail from Underwood to the Movant, dated December 17, 2019, Underwood claimed that he was confident the Property would be sold within thirty days. *See* Lacy Decl., ¶ 7; Ex. F. The Property has already been exposed to the market for a period of approximately ten months, and the reason that it has not been purchased yet is due to Debtor’s unrealistic asking price, both before and after COVID-19. Third, the equity in the Property has been severely impacted by the pandemic, and the Motion must be denied to permit Movant to protect its secured interest by immediately selling the Property.

**Summary of the Reply**

The Debtor submitted a timely response to the Opposition, asserting the following arguments and representations:

The Opposition is not persuasive as it fails to consider several critical facts. First, the Debtor is taking steps to maintain the Property and protect the substantial equity contained therein. Second, the Movant paints an inaccurate picture of the 2020 luxury real estate market. Although it is true that several neighboring properties around the Property have been recently sold, the real estate market in Los Angeles County has fallen by about 45% this year, compared to the number of homes sold in 2019 during the same period. *See* Supplemental Declaration of Keith Kelley (“Kelley Supp. Decl.”), ¶ 4. Additionally, only one residence in the Rolling Hills area has sold for over \$5 million this year, compared to the three sold in 2019. *Id.* Kelley provides further anecdotal commentary in support of the proposition that the real estate market in Rolling Hills changes from year to year. *See id.* at ¶¶ 4-5. Based on Kelley’s experience as a broker, it is not that “luxury real estates are not worth the price they are asking, but rather that it is taking longer to find the interested buyers because of Covid-19’s impact.” *Id.* at ¶ 4. Notably, the Debtor had a written offer last week for \$5,130,000 and another showing was scheduled for June 4, 2020. *Id.* at ¶ 5. Last, according to Underwood, the Debtor is willing to lower its asking price to facilitate the sale of the Property. Supplemental Declaration of Underwood, ¶ 3.

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CONT... LCI Group Limited LLC

Chapter 11

## II. Findings of Fact and Conclusions of Law

The issue presently before the Court is whether the Court should exercise its equitable powers to extend certain deadlines associated with the sale of the Property. Said deadlines were established as part of the Court's denial of the Stay Relief Motion by way of the January 28 Order. The January 28 Order provides in relevant part:

The Motion is DENIED, subject to the condition that Debtor must obtain an order authorizing sale of the Property by no later than June 15, 2020, either through a sale motion or approval of a Chapter 11 plan that provides for the Property's sale. The sale of the Property must close by no later than July 15, 2020. If the Debtor fails to comply with either deadline, the Court will grant the stay-relief requested in the Motion, without further notice or hearing. In the event the Debtor fails to comply with these deadlines, Movant shall submit a declaration so attesting, accompanied by a proposed order lifting the automatic stay. The Court adopts its tentative ruling [Doc. No. 17] as the final ruling and incorporates herein, in full, by reference.

See Doc. No. 19.

An order granting or denying a motion for relief from the automatic stay is a final order. *In re Greenstein*, 576 B.R. 139, 170 (Bankr. C.D. Cal. 2017), aff'd, 589 B.R. 854 (C.D. Cal. 2018), aff'd, 788 F. App'x 497 (9th Cir. 2019) (citing *Samson v. W. Capital Partners, LLC (In re Blixseth)*, 684 F.3d 865, 866 n.1 (9th Cir. 2012)). A final order of the court cannot be collaterally attacked. *Id.*; *Heritage Pac. Fin. LLC v. Machuca (In re Machuca)*, 483 B.R. 726, 733 (9th Cir. B.A.P. 2012). While § 105(a) of the Bankruptcy Code authorizes courts to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title," the equitable powers assigned to bankruptcy courts are limited when it comes to a request to reconsider a final order. "Despite the broad grant of equitable powers, bankruptcy courts cannot use them 'to defeat clear statutory language, nor to reach results inconsistent with the statutory scheme established by the Code.'" *In re Reinertson*, 241 B.R. 451, 455 (B.A.P. 9th Cir. 1999) (quoting *Committee of Creditors Holding Unsecured Claims v. Koch Oil Co. (In re Powerine Oil Co.)*, 59 F.3d 969, 973 (9th Cir.1995)). "The bankruptcy court's inherent power to reconsider orders has been merged into the Federal Rules of Bankruptcy Procedure and the Federal Rules of Civil Procedure." *Id.* at 456 (bankruptcy court abused its discretion when vacating an order on a reaffirmation agreement under §



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105(a), without regard to Civil Rule 60(b)).

As an initial matter, the Court deems the request to extend the Deadlines under § 105(a) as a collateral attack of the January 28 Order, which is a final order on a relief from stay motion. However, even if the Court were to construe the Motion as a direct attack against the January 28 Order, the Debtor has not persuaded the Court that (a) it has been impossible and unrealistic to timely sell the Property, even in light of COVID-19, or (b) that the Property stands a better chance of being sold in the next six months.

The Debtor has had ample opportunity to market and sell the Property, before and after the restrictions resulting from the COVID-19 pandemic. The Court notes that the Debtor did not dispute the contention that the Property has been listed for sale since August 5, 2019. *See* Lacy Declaration, ¶ 7. At the outset of this case, the Debtor readily moved to retain the services of bankruptcy counsel and a real estate broker to accomplish the sale. Even after shutdown, the Debtor continued to have an opportunity to market the Property, and it did so by, *inter alia*, organizing virtual tours, contacting potential buyers, and decreasing the asking price for the Property from \$7,950,000 to \$6,950,000. Through its efforts, the Debtor was able to show the Property to potential buyers, and it received recent indications of interest and even a written offer for \$5,130,000. Because it has had a meaningful opportunity to sell the Property, the Debtor's inability to comply with the Deadlines arises from the strategy to sell the Property for an infeasible asking price. The Court further notes that despite present market conditions luxury residences in the Rolling Hills area have continued to sell, even after the COVID-19 shutdown. In fact, one of these residences was brokered and sold by Kelley, in roughly the same location as the Property, for \$4,720,000, following a significant price decrease. *See* Lacy Decl., ¶¶ 4-5; Kelley Supp. Decl., ¶ 4. Although the Debtor promises to lower the asking price on the Property, this action should have contemplated earlier, not only because of COVID-19, but also given that the Debtor and its professionals recognized the volatility of the luxury real estate market. Accordingly, the Debtor acknowledged such volatility in the Reply:

Each year the sale of luxury real estate changes in Rolling Hills because the area is so diverse in the type of properties it offers. In the past there were lot of equestrian people buying luxury real estate with horse facilities and were ready to pay the premium price to purchase. Another year the Rolling Hills saw a drastic increase in buying luxury real estate with an ocean view.

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Reply at 3. And based on the Debtor’s marketing strategy, it is unclear whether the Property stands a better chance of being sold in the next six months. Critically, a potential resurgence of COVID-19 cases in the months to come could result in an even more depressed market for luxury residences. In light of the uncertainty caused by the pandemic, the Debtor’s promises to sell the Property “as soon as possible” are not well justified. Relatedly, the Debtor’s inability to accomplish the sale of the Property creates uncertainty as to whether Movant’s interest therein remains adequately protected.

In sum, the depressed market for upscale residences in the Los Angeles area may be depressed for some time to come. COVID-19 has added to the downward pressure, but it is not the sole cause. If the Debtor receives any financially workable offers on the Property, the parties would be strongly encouraged to enter into a stipulation extending the Deadlines. However, absent any indication that the Property will be imminently sold, the Court declines to reconsider the January 28 Order.

### **III. Conclusion**

Based upon the foregoing, the Motion is DENIED. The January 28 Order still stands, subject to the parties’ stipulation.

The Debtor shall upload an appropriate order via the Court’s Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

LCI Group Limited LLC

Represented By  
Michael Jay Berger

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#1.00** Hearing re [4317] and [4345] re Objection with respect to the transfer of the SFMC **Medi-Cal** Provider Agreement.

fr. 5-13-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing re [4567] Issues Regarding Transfer of Seton **Medi-Cal** Provider Agreement.

fr. 5-13-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#3.00** Hearing RE [4285] Objection regarding transfer of the SFMC **Medicare** Provider Agreement.

fr. 5-13-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A..M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**#4.00** Hearing re [4568] Hearing Re Issues Regarding Transfer of Seton **Medicare** Provider Agreement

fr. 5-13-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-1-20 AT 10:00 A..M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** HearingRE: [4754] Motion of Medline Industries, Inc. to Compel Payment of Administrative Claim, or in the Alternative, to Disallow Further Payment of Professional Fees

Docket 4754

**Tentative Ruling:**

6/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **DENIED**.

**Pleadings Filed and Reviewed:**

- 1) Medline Industries, Inc.'s Motion to Compel Payment of Administrative Claim, or in the Alternative, to Disallow Further Payment of Professional Fees [Doc. No. 4754] (the "Motion")
  - a) Notice of Hearing on [Motion] [Doc. No. 4755]
  - b) Certification of Service [Doc. No. 4758]
- 2) Debtors' Opposition to [the Motion] [Doc. No. 4795]
- 3) Response of UMB Bank, N.A. and Wells Fargo Bank, N.A. to [the Motion] [Doc. No. 4794]
- 4) Official Committee of Unsecured Creditors' Statement in Support of [the Motion] [Doc. No. 4836]
- 5) No reply in support of the Motion is on file

**I. Facts and Summary of Pleadings**

Medline Industries, Inc. ("Medline") moves for entry of an order compelling the Debtors to pay Medline's § 503(b)(9) administrative claim (the "Section 503(b)(9) Claim"), which has a balance of \$1,015,909.90. The Debtors, UMB Bank, N.A. ("UMB"), and Wells Fargo Bank, N.A. ("Wells Fargo," and together with UMB, the "Banks") oppose the Motion. The Official Committee of Unsecured Creditors (the

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"Committee") filed a statement in support of the Motion.

**A. Background**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. As of the Petition Date, the Debtors operated six acute care hospitals (the "Hospitals").

On March 22, 2019, the Court approved a settlement agreement between the Debtors and Medline [Doc. No. 1591, Ex. A] (the "Settlement Agreement"). See Doc. No. 1887 (the "Rule 9019 Order"). The Settlement Agreement (1) fixes the amount of Medline's Section 503(b)(9) Claim at \$1,281,126, Settlement Agreement at § 1.2; (2) provides that the Section 503(b)(9) Claim shall be "paid upon the effective date of a plan of reorganization, or earlier at the Debtors' discretion," *id.* at § 1.3; and (3) requires Medline to "support entry of an order approving the Agreement in good faith, including, among other things, by not objecting to or otherwise commencing any proceeding or taking any other action opposing the terms or implementation of this Agreement or any order approving this Agreement," *id.* at § 2.7.2.

On April 20, 2020, the Debtors paid Medline \$265,216.15 of its Section 503(b)(9) Claim, leaving a balance of \$1,015,909.90.

Subsequent to the Petition Date, Medline has continued to provide the Debtors with medical supplies and equipment. Apart from the Section 503(b)(9) Claim, the Debtors have paid Medline approximately \$35 million on account of post-petition supplies that Medline has provided to the Debtors.

**B. Summary of Papers Filed in Connection with the Motion**

Medline moves for an order compelling the Debtors to pay the \$1,015,909.90 remaining on its Section 503(b)(9) Claim. Medline states that at the time it entered the Settlement Agreement, it did not anticipate that the Debtors would not have confirmed a plan more than a year after entry of the 9019 Order approving the Settlement Agreement. Medline argues that it is prejudiced by the Debtors' continued payment of professional fees that are *pari passu* with its Section 503(b)(9) Claim. Medline asserts that if there is no risk of administrative insolvency, the Debtors should be compelled to pay Medline's Section 503(b)(9) Claim immediately. Medline further argues that if there is a risk of administrative insolvency, the Court should disallow further payments of professional fees.

The Debtors oppose the Motion. The Debtors point out that under the Settlement



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Agreement, the Debtors are not required to pay Medline's Section 503(b)(9) Claim until the effective date of a plan. The Debtors argue that Medline has failed to show that it is entitled to reconsideration of the 9019 Order. The Debtors further contend that Medline has violated the Settlement Agreement by seeking an order compelling payment of its Section 503(b)(9) Claim on terms other than those contained in the Settlement Agreement.

UMB and Wells Fargo (collectively, the "Banks") oppose the Motion. The Banks argue that there are no valid grounds upon which the Court can compel the use of their cash collateral to pay Medline's Section 503(b)(9) Claim. The Banks also maintain that the relief sought in the Motion is premature because under the latest order authorizing the use of cash collateral, the Debtors are required to file a plan no later than June 15, 2020.

The Committee supports the Motion. The Committee points to prior pleadings in which it has expressed concern that these cases may be administratively insolvent.

Medline has not filed a reply in support of the Motion.

## **II. Findings and Conclusions**

Section 503(b)(9) allows a party to seek an administrative claim for "the value of any goods received by the debtor within 20 days before the date of the commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business." Section 1129(a)(9)(A) requires that a plan provide for payment in cash of all administrative claims on the effective date of the plan, unless the administrative claimant has agreed to different treatment.

Medline chose to enter into the Settlement Agreement, which expressly provides that Medline's Section 503(b)(9) Claim shall be "paid upon the effective date of a plan of reorganization, or earlier at the Debtors' discretion ...." Settlement Agreement at § 1.3. The fact that the Debtors have not confirmed a plan as quickly as Medline anticipated does not warrant departure from the clear provisions of the Settlement Agreement. At the time the Settlement Agreement was negotiated, Medline could have easily anticipated the possibility that plan confirmation would be delayed. It would not have been difficult for that possibility to have been addressed in the Settlement Agreement. For example, the Settlement Agreement could have established a timetable for the payment of Medline's Section 503(b)(9) Claim in the event that a plan had not been confirmed by a particular date.

The Motion is effectively a request for reconsideration of the 9019 Order approving the Settlement Agreement. Medline has not shown that it is entitled to relief from the 9019 Order under Civil Rule 60(b). For example, as a large commercial entity advised

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by sophisticated counsel, Medline cannot credibly claim that the delay in plan confirmation amounts to “surprise” under Civil Rule 60(b)(1). Further, Medline’s attempt to unwind the Settlement Agreement violates that very agreement. The Settlement Agreements prohibits Medline from “commencing any proceeding or taking any other action opposing the terms or implementation of this Agreement or any order approving this Agreement.” Settlement Agreement at § 2.7.2.

Medline places substantial weight upon the fact that it has continued to provide supplies to the Debtors notwithstanding non-payment of its Section 503(b)(9) Claim. *See, e.g.*, Motion at ¶ 11 (“Even currently, during this unprecedented COVID-19 pandemic, Medline has gone above and beyond to ensure the Debtors receive the medical supplies and equipment needed to safely operate these facilities under extraordinary conditions. Yet, the Debtors do not believe it is appropriate to pay the remaining balance of Medline’s Section 503(b)(9) Claim, when they have the funds to do so.”). Medline’s argument conflates the payment of its Section 503(b)(9) Claim with payment for post-petition supplies that Medline has provided to the Debtors in the ordinary course of business. Medline *has* been paid approximately \$35 million for post-petition supplies furnished to the Debtors. Medline’s Section 503(b)(9) Claim pertains only to supplies Medline provided during the twenty days prior to the Petition Date. Payment of the Section 503(b)(9) Claim is an entirely separate issue from payment for the post-petition supplies.

Entry of an order compelling payment of the Section 503(b)(9) Claim would also violate the *Final Order Approving Stipulation to (A) Amend the Third Amended Supplemental Cash Collateral Order, (B) Authorize Continued Use of Cash Collateral, (C) Grant Adequate Protection, (D) Modify Automatic Stay, and (E) Grant Related Relief* [Doc. No. 4670] (the “Fourth Supplemental Cash Collateral Order”). The Fourth Supplemental Cash Collateral Order provides that the Debtors are authorized to use the Banks’ cash collateral in accordance with the Cash Collateral Budget [Doc. No. 4669, Ex A]. The Cash Collateral Budget does not provide for the payment of Medline’s Section 503(b)(9) Claim.

### **III. Conclusion**

Based upon the foregoing, the Motion is **DENIED**. Within seven days of the hearing, the Debtors shall lodge an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge’s Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling**

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**and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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Los Angeles  
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**#6.00 Hearing**

RE: [4741] Motion to Reject Lease or Executory Contract /Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with SEIU; Declarations Of Richard G. Adcock and Steven Sharrer in Support Thereof

FR. 6-3-20

Docket 4741

**Tentative Ruling:**

6/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the Motion and the papers filed in connection therewith, the Court believes that consensual resolution of the § 1113 issues remains possible. To that end, the Court declines to issue a final ruling on the Motion at this initial hearing. Instead, this tentative ruling provides guidance intended to facilitate and channel further negotiations.

The final hearing on the Motion shall take place on **July 8, 2020, at 10:00 a.m.**, unless the Debtors and SEIU agree to a further extension of time to facilitate negotiations. *See* § 1113(d)(2) (requiring the Court to rule upon an application for modification or rejection of a collective bargaining agreement within thirty days of the initial hearing, unless the parties agree otherwise). By no later than **July 1, 2020, at 5:00 p.m.**, the Debtors and SEIU shall submit final briefs accompanied by appropriate evidence setting forth their positions on those issues that remain in dispute.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with SEIU [Doc. No. 4741] (the "Motion")
  - a) Certificate of Service [Doc. No. 4803]
- 2) Order Setting Briefing Schedule on Section 1113 Motions [Doc. No. 4753]
  - a) Stipulation Continuing Hearing and Deadlines Regarding Debtors' Motions

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- Under Section 1113 of the Bankruptcy Code [Doc. No. 4815]
- b) Order Granting Stipulation Continuing Hearing and Deadlines Regarding Debtors' Motions Under Section 1113 of the Bankruptcy Code [Doc. No. 4819]
  - 3) SEIU-UHW's Opposition to Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4806]
    - a) Declaration of Caitlin E. Gray in Opposition to Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4807]
    - b) Stipulation Extending Deadline for SEIU-UHW Re Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4797]
    - c) Order Approving Stipulation Extending Deadline for SEIU-UHW Re Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4816]
  - 4) Notice of Filing of Declarations Pursuant to Court's Scheduling Order in Connection with Debtors Motion to Reject Collective Bargaining Agreement with UNAC Under § 1113 of the Bankruptcy Code [Doc. No. 4844]

## **I. Facts and Summary of Pleadings**

Debtors move for entry of an order authorizing them to reject a collective bargaining agreement (the "CBA") between St. Francis Medical Center ("St. Francis") and Service Employees International Union–United Healthcare Workers West ("SEIU"). SEIU opposes the Motion.

### **A. Background**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

On February 26, 2020, the Court entered an *Order (1) Approving Auction Sale Format and Bidding Procedures; (2) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (3) Approving Form of Notice to be Provided to Interested Parties; (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases* [Doc. No. 4165] (the "Bidding Procedures Order"). The Bidding Procedures Order established procedures governing the auction (the "Auction") of St. Francis.

The Bidding Procedures Order authorized the Debtors to designate a Stalking Horse Bidder without further order of the Court. The Debtors designated Prime as the Stalking Horse Bidder. The Debtors received bids from potential purchasers, but after consulting

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with their advisors and the Consultation Parties (as defined in the Bidding Procedures Order), determined that such bids did not constitute Qualified Bids. The Debtors selected Prime as the Winning Bidder and did not conduct the Auction.

On April 9, 2020, the Court entered an order authorizing the Debtors to sell St. Francis to Prime. *See* Doc. No. 4511 (the "Sale Order"). Material terms of the Asset Purchase Agreement (the "APA") as they pertain to the CBA are as follows:

4.9. Contract With Unions. (a) ... The applicable Sellers and Purchaser shall each participate in all negotiations related to the potential modification and assignment of specific Seller's collective bargaining agreements to Purchaser. The applicable Sellers shall use commercially reasonable efforts to initiate discussions with Purchaser and unions and conduct discussions to renegotiate each collective bargaining agreement currently in effect with each applicable union. The applicable Sellers will not unreasonably withhold, condition or delay Bankruptcy Court approval of any successfully renegotiated collective bargaining agreement. The Parties recognize that Seller's failure to conclude a successor collective bargaining agreement shall not be a breach of Sellers' obligation under this Agreement or otherwise excuse Purchaser's obligations under this Agreement.

(b) On or before the date that is thirty (30) days after the Sale Order Date, the negotiations pursuant to Section 4.9(a) shall have resulted in each, such labor unions, agreeing to either (i) either modification of the St. Francis related collective bargaining agreements under terms that are to be substantially consistent with the Purchaser's existing and most current collective bargaining agreements with each such respective labor union, and that settle all liabilities under the existing Seller collective bargaining agreements that shall be assigned to Purchaser, provided that there are shall be no cure obligations to the Sellers or (ii) enter into new collective bargaining agreements that are substantially consistent with the Purchaser's existing collective bargaining agreements with each such respective labor union; provided, that if Purchaser and each labor union have not entered into such agreements described in (i) or (ii) above, or have entered into an agreement under (ii), then Sellers shall have the absolute right to file or take any other action to reject and terminate any such collective bargaining agreement and, in such event, the Bankruptcy Court shall have entered an order granting Sellers' requested rejection of such collective bargaining agreement prior to the Closing Date.

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APA at § 4.9.

If Prime and SEIU have not consensually entered into a CBA consistent with § 4.9, Prime is not required to close the sale unless the Debtors have obtained an order authorizing rejection of the existing CBA:

Sellers shall have satisfied, in all material respects, their obligations set forth in Section 4.9(b). For the avoidance of doubt, in the event that Purchaser and each labor union has not entered into an agreement described in Section 4.9(b)(i) or (ii), then material satisfaction of Section 4.9(b) means that Seller has filed or taken action to reject and terminate any such collective bargaining agreement and that the Bankruptcy Court has entered an order granting Seller's requested rejection of such collective bargaining agreement prior to the Closing Date.

APA at § 8.7.

Either the Debtors or Prime may terminate the APA if the sale has not closed on or before September 1, 2020 (the "Termination Date"), except that the Termination Date shall be December 31, 2020 if the only condition to closing that has not been satisfied is the Attorney General's consent to the sale upon conditions consistent with those that the Purchase has agreed to accept. *Id.* at § 9.1(i).

**B. Summary of Papers Filed in Connection with the Motion**

Debtors assert that rejection of the CBA is warranted for the following reasons:

- 1) Thorough marketing of St. Francis produced only the bid from Prime. The Debtors have facilitated negotiations between Prime and SEIU intended to result in the negotiation of a successor CBA between the parties (the "Successor CBA"). The parties did not reach agreement on the terms of a Successor CBA within the 30-day period specified in the APA. Pursuant to the APA, the Debtors now have the absolute right to take action seeking to reject the CBA.
- 2) On May 13, 2020, the Debtors delivered to SEIU a proposal providing for rejection and termination of the CBA (the "Proposal"). Under the Proposal, if SEIU consents to rejection, SEIU employees who are not offered employment by Prime will receive an allowed claim for severance (the "Severance Benefit"). If SEIU contests rejection, the Debtors will withdraw the Severance Benefit.

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- 3) The marketing process has demonstrated that the CBA is not economically viable and that neither Prime nor any other entity will acquire St. Francis subject to the CBA. Upon the closing of the sale, the Debtors will no longer operate St. Francis and therefore will not need the CBA. Accordingly, rejection of the CBA is necessary to permit the Debtors to confirm a liquidating plan by facilitating the closing of the sale of St. Francis. If the CBA is not rejected prior to the closing of the sale, the Debtors will be exposed to a substantial administrative claim. In authorizing the rejection of collective bargaining agreements in connection with the Santa Clara Sale, the Court found that absent rejection the estate would almost certainly be rendered administratively insolvent.

SEIU opposes the Motion for the following reasons:

- 1) The Debtors failed to meet with SEIU at reasonable times to confer in good faith as required by § 1113. The Debtors did not respond to SEIU's request to be included in the sale process prior to the negotiation of the APA. SEIU was not provided the opportunity to discuss the treatment of the purchaser's collective bargaining obligations before the APA had been finalized and filed with the Court on April 8, 2020. The APA provides that if SEIU does not agree to modify the collective bargaining agreement or enter a new collective bargaining agreement with terms "substantially similar" to Prime's existing agreements within 30 days after entry of the Sale Order, the Debtors will have the right to reject the collective bargaining agreement and will be obligated to obtain rejection prior to the closing of the sale. The Debtors were locked into these terms before they began any discussions with SEIU. In *In re Lady H Coal Co., Inc.*, 193 B.R. 233, 242 (Bankr. S.D.W. Va. 1996), the court rejected the debtor's attempt to reject a CBA where, as here, the Debtors did not seek rejection of the CBA until after they had entered into a sale agreement with a party not willing to assume the CBA. The *Lady H* court explained "that a debtor has a duty under § 1113 to not obligate itself prior to negotiations with its union employees, which would likely preclude reaching a compromise," and held that "the Debtors could not have bargained in good faith as the Debtors were, prior to any negotiations with the union, locked into at an agreement where the purchaser was not assuming the [CBA]." *Lady H*, 193 B.R. at 242.
- 2) The Debtors' Proposal is not based upon the most complete and reliable



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information available. To evaluate Prime's proposed Successor CBA, SEIU requested information about the proposed wage scale, the reasoning behind Prime's proposal to create a right to subcontract out work previously performed by SEIU, and how much of the workforce would be retained by Prime. This information has never been provided. The lack of information has made it difficult for SEIU to present a counter-proposal to Prime's proposal and has prevented SEIU from assessing the Debtors' Proposal.

- 3) The Debtors have failed to demonstrate that the Proposal, which terminates all severance obligations if SEIU contests rejection, is necessary for the Debtors to confirm a liquidating plan. The Debtors have offered to pay severance to workers not rehired by Prime, but only if SEIU does not contest rejection of the CBA. This demonstrates that the Debtors have the ability to comply with the CBA's severance obligations.

**C. Discussions Between the Debtors, SEIU, and Prime**

Prior to the filing of the Motion, the Debtors, Prime, and SEIU met and engaged in bargaining on three occasions—on May 1, 5, and 8. The Debtors filed the Motion on May 19. After the Motion was filed, the Debtors, Prime, and SEIU met and engaged in bargaining on June 4 and June 8. On June 4, SEIU presented a counter-proposal for a Successor CBA with Prime that was based on a redline of Prime's original proposal. Declaration of An N. Ruda [Doc. No. 4844] at ¶ 12. Prime agreed to submit a counterproposal at the June 8 bargaining session. *Id.*

**II. Findings and Conclusions**

As a preliminary matter, the Court emphasizes that the record is not complete because this is the initial hearing on the Motion, and the Debtors have not yet responded to SEIU's opposition. [Note 1] The findings set forth below are subject to adjustment based upon arguments presented at the hearing. The Court further notes that a motion to modify or terminate a CBA is unlike most motions heard by the Court, in that the statute expressly contemplates that the position of the parties may change as a result of negotiation up until the hearing date. *See* § 1113(b) (requiring the Debtors to meet with the union's authorized representative "at reasonable times" during "the period beginning on the date of the making of the proposal ... and ending on the date of the hearing ...").

The Court declines to rule upon the Motion at the present time. The findings set forth herein are intended to provide guidance to the parties to facilitate and channel further negotiations. "The language and history of section 1113 make clear that the preferred outcome under section 1113 is a negotiated solution rather than contract rejection." *In re*

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*AMR Corp.*, 477 B.R. 384, 393 (Bankr. S.D.N.Y. 2012). In the Court's view, a negotiated resolution remains possible and would inure to the benefit of all stakeholders. The Court notes that prior to the failure of the SGM Sale, the Debtors and SEIU were able to consensually resolve issues pertaining to the CBA. The Court is aware that Prime's proposals regarding a Successor CBA differ in material respects from the terms reached with SGM. Nonetheless, the prior consensual resolution shows that a negotiated solution remains possible.

Section 1113 provides:

(a) The debtor in possession, or the trustee if one has been appointed under the provisions of this chapter, ... may assume or reject a collective bargaining agreement only in accordance with the provisions of this section.

(b)

(1) Subsequent to filing a petition and prior to filing an application seeking rejection of a collective bargaining agreement, the debtor in possession or trustee (hereinafter in this section "trustee" shall include a debtor in possession), shall—

(A) make a proposal to the authorized representative of the employees covered by such agreement, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the employee benefits and protections that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

(B) provide, subject to subsection (d)(3), the representative of the employees with such relevant information as is necessary to evaluate the proposal.

(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1) and ending on the date of the hearing provided for in subsection (d)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.

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(c) The court shall approve an application for rejection of a collective bargaining agreement only if the court finds that—

- (1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (b)(1);
- (2) the authorized representative of the employees has refused to accept such proposal without good cause; and
- (3) the balance of the equities clearly favors rejection of such agreement.

"Bankruptcy cases generally approach this complicated statute by breaking the statute into a nine part test" first set forth in *In re Am. Provision Co.*, 44 B.R. 907, 909 (Bankr. D. Minn. 1984). *See In re Karykeion, Inc.*, 435 B.R. 663, 677 (Bankr. C.D. Cal. 2010); *see also In re Family Snacks, Inc.*, 257 B.R. 884, 892 (B.A.P. 8th Cir. 2001) ("Virtually every court that is faced with the issue of whether a Chapter 11 debtor may reject its collective bargaining agreement utilizes a nine-part test that was first set down by the bankruptcy court in *In re American Provision Co.*"). The *American Provision* factors are as follows:

- 1) The debtor in possession must make a proposal to the Union to modify the collective bargaining agreement.
- 2) The proposal must be based on the most complete and reliable information available at the time of the proposal.
- 3) The proposed modifications must be necessary to permit the reorganization of the debtor.
- 4) The proposed modifications must assure that all creditors, the debtor and all of the affected parties are treated fairly and equitably.
- 5) The debtor must provide to the Union such relevant information as is necessary to evaluate the proposal.
- 6) Between the time of the making of the proposal and the time of the hearing on approval of the rejection of the existing collective bargaining agreement, the debtor must meet at reasonable times with the Union.
- 7) At the meetings the debtor must confer in good faith in attempting to reach mutually satisfactory modifications of the collective bargaining agreement.
- 8) The Union must have refused to accept the proposal without good cause.
- 9) The balance of the equities must clearly favor rejection of the collective

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*American Provision*, 44 B.R. at 909.

Courts apply the *American Provision* factors even where a debtor is liquidating its assets and does not intend to continue in business after emerging from bankruptcy. Courts reason that "reorganization," as used in § 1113(b)(1)(A), is "generally understood to include all types of debt adjustment, including a sale of assets, piecemeal or on a going concern basis, under § 363 followed by a plan of reorganization which distributes the proceeds of the sale to creditors in accordance with the Bankruptcy Code's priority scheme." *Family Snacks*, 257 B.R. at 895. Some courts have held that where, as here, the Debtors are liquidating their assets, the phrase "necessary to permit the reorganization of the debtor" means "necessary to achieve a sale under § 363 of the Bankruptcy Code." *Alpha Nat. Res., Inc.*, 552 B.R. 314, 333 (Bankr. E.D. Va. 2016); see also *Walter Energy*, 542 B.R. at 890 (requiring that the debtor's proposal "be necessary to permit ... those modifications necessary to consummate a going-concern sale"); *In re Karykeion, Inc.*, 435 B.R. 663, 679 (Bankr. C.D. Cal. 2010) (finding that the debtor had proven that rejection was necessary when the closing of a § 363 sale was contingent on rejection of a collective bargaining agreement). Other courts have concluded that in a liquidating case, the phrase "necessary to permit reorganization of the debtor" means "necessary to accommodate confirmation of a Chapter 11 plan." *Family Snacks*, 257 B.R. at 895.

**Factor 3—Necessary to Permit the Reorganization of the Debtor**

In the context of this case, the term "necessary to permit the reorganization of the debtor" is best interpreted to mean "necessary to permit the Debtors to confirm a liquidating plan." This interpretation aligns most closely with the manner in which the Debtors are prosecuting this case. From the outset, the Debtors have stated their intent to sell their hospitals and use the proceeds from the sales to fund a plan of liquidation. This process is well underway. The sales of O'Connor Hospital, St. Louise Regional Medical Center, and St. Vincent Medical Center have all closed.

The closing of the sale of St. Francis to Prime is essential to the Debtors' ability to confirm a liquidating plan. The failure of the prior sale of St. Francis to Strategic Global Management, Inc. has made confirmation of a liquidating plan more challenging by requiring the Debtors to remain in bankruptcy for far longer than anticipated. To satisfy Factor 3, the Debtors must demonstrate that rejection of the CBA is a prerequisite to the closing of the sale.

The Debtors assert that Factor 3 is satisfied because under the APA, if Prime has not

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entered into an agreement with SEIU within thirty days after entry of the Sale Order, Prime is not required to close the sale unless the CBA has been rejected. The Debtors maintain that their proposal to SEIU to reject the CBA has been made in good-faith (Factor 7) because Prime's refusal to acquire St. Francis subject to the CBA is beyond the Debtors' control. The Debtors cite *In re Walter Energy, Inc.*, 542 B.R. 859, 885 (Bankr. N.D. Ala. 2015), which held that a debtor's proposal to reject a CBA was in good faith where the only bidder willing to acquire the assets was unwilling to do so unless the CBA was rejected.

If SEIU and Prime can agree upon the terms of Successor CBA, it will not be necessary for the Debtors to obtain an order rejecting the CBA. The fact that SEIU and Prime did not agree upon a Successor CBA within thirty days after entry of the Sale Order does not foreclose the possibility of the parties reaching an agreement prior to the closing of the sale. There is still ample time for negotiations to take place. The deadline for the sale to close is September 1, 2020 if the Attorney General consents to the sale upon conditions acceptable to Prime; if the Attorney General does not so consent, the deadline is December 31, 2020. It would be premature for the Court to find that rejection of the CBA is necessary to facilitate the closing of the sale.

In a declaration filed on June 8, 2010, An N. Ruda, the Debtors' Chief Labor Negotiator, testifies that "finality of a rejection of the CBA between SEIU and Debtor SFMC would likely motivate [Prime and SEIU] to bridge their differences and achieve a new CBA prior to Closing." Ruda Decl. [Doc. No. 4845] at ¶ 15. The Court does not agree with Ruda's assessment. In the Court's view, the best means of facilitating a Successor CBA between SEIU and Prime—and therefore eliminating the necessity for the Debtors to obtain an order rejecting the CBA—is to defer ruling on the Motion. Deferral of a ruling provides all parties an incentive to attempt to resolve their differences consensually.

**Factors 2 and 5—Complete Information**

Factor 2 requires that the Debtors' proposal be based on the most complete and reliable information available at the time the proposal is made. Factor 5 requires that the Debtors provide SEIU with "such relevant information as is necessary to evaluate the proposal." For both factors, a debtor "must gather the 'most complete information at the time and ... base its proposal on the information it considers reliable,' excluding 'hopeful wishes, mere possibilities and speculation.' 'The breadth and depth of the requisite information will vary with the circumstances, including the size and complicity of the debtor's business and work force; the complexity of the wage and benefit structure under the collective bargaining agreement; and the extent and severity of modifications the

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debtor is proposing.” *In re Walter Energy, Inc.*, 542 B.R. 859, 886 (Bankr. N.D. Ala. 2015), *aff’d sub nom. United Mine Workers of Am. 1974 Pension Plan & Tr. v. Walter Energy, Inc.*, 579 B.R. 603 (N.D. Ala. 2016), *aff’d sub nom. In re Walter Energy, Inc.*, 911 F.3d 1121 (11th Cir. 2018) (internal citations omitted).

With respect to Prime’s proposed Successor CBA, SEIU has requested information from Prime about the reasoning behind the proposed wage scale, the reasoning for Prime’s proposal to create a right to subcontract out work previously performed by SEIU, and how much of the workforce would be retained by Prime.

Under § 1113, the obligation to provide information is directed toward the Debtors, not Prime. *See Walter Energy*, 542 B.R. at 896 (“To satisfy the second and fifth procedural requirements, a debtor need only provide that information that is within its power to provide.”). Prime’s failure to provide the information requested by SEIU cannot prevent the Debtors from satisfying Factors 2 and 5.

That being said, the statute’s structure does not mean Prime can refuse to respond to all of SEIU’s requests for information. The Debtors have sought rejection of the CBA based upon language in the APA that Prime itself negotiated for. It is necessary for the Debtors to seek rejection only because SEIU and Prime have been unable to agree upon a Successor CBA. Under these circumstances, it is incumbent upon Prime—who benefits from the APA and the Debtors’ attempts to reject the CBA—to provide at least some information to SEIU.

As discussed above, a negotiated resolution of the § 1113 issues would inure to the benefit of all parties. The testimony of the Debtors’ Chief Labor Negotiator indicates that significant progress occurred at the June 4 and June 8 bargaining sessions. *See Ruda Decl.* at ¶ 12 (“In my observation [the June 4 session] was more productive than previous ones. To begin, SEIU passed a comprehensive proposal for a new CBA redlining off the new CBA originally proposed by Prime .... To its credit, Prime acknowledge the significance of the movement made by SEIU, and committed to submitting its own comprehensive counterproposal at the next meeting.”). In the Court’s view, a formal response by Prime to SEIU’s request for additional information would significantly increase the likelihood of consensual resolution.

**Factor 7—Good Faith Negotiations**

Factor 7 requires that the Debtors meet and confer with SEIU in good faith. “The good faith requirement under section 1113 has been interpreted to mean that the debtor must make a serious effort to negotiate.” *Walter Energy*, 542 B.R. at 894.

According to SEIU, the Debtors cannot establish that they met and conferred in good faith regarding modification of the CBAs. SEIU asserts that by the time the Debtors

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commenced negotiations, the language in the APA made it foregoing conclusion that Prime would not assume the CBA. SEIU relies upon *In re Lady H Coal Co., Inc.*, 193 B.R. 233, 242 (Bankr. S.D.W. Va. 1996) for the proposition "that a debtor has a duty under § 1113 to not obligate itself prior to negotiations with its union employees, which would likely preclude reaching a compromise." The *Lady H* court held that "the Debtors could not have bargained in good faith as the Debtors were, prior to any negotiations with the union, locked into at an agreement where the purchaser was not assuming the [CBA]." *Id.*

SEIU's reliance upon *Lady H* is misplaced. In *Lady H*, the debtor's CEO unilaterally obtained a broker to market the assets at issue, in violation of § 327. As a result of this violation, the unions received no notice of the marketing of the assets. *Lady H*, 193 B.R. at 242. The lack of notice deprived the unions of the "opportunity to participate in whatever process a debtor engages in to find a suitable buyer." *Id.* Here, by contrast, the Debtors have stated their intent to sell the St. Francis from the inception of the case. The Debtors fully complied with the requirements of § 327 when retaining Cain to market the St. Francis.

In addition, the debtor in *Lady H* did not pursue a possible sale to another buyer who was willing to assume the union's CBA. *Id.* Instead, the debtor obligated itself to a buyer that wanted to reject the CBA, primarily because that buyer had agreed to employ the debtor's officers at inflated salaries. *Id.* In contrast to the facts of *Lady H*, the record shows that the Debtors executed the APA with Prime to maximize the proceeds available to the estate, not to enrich insiders, and that the Debtors aggressively marketed St. Louise. The entire purpose of the APA with Prime was to produce additional favorable bids, some of which might include assumption of the CBAs. The Debtors were not "locked in" under the APA; the APA was merely the first step in a thorough marketing process. The fact that no other bidders emerged does not indicate that there were problems with the APA; it instead demonstrates that no buyers exist who are willing to acquire St. Louise subject to the CBA.

The only temporal requirement imposed by the statute regarding the Debtors' bargaining obligations is that the bargaining commence prior to the filing of a motion seeking relief under § 1113. § 1113(b)(1)(A). Here, the Debtors fulfilled this requirement by meeting with SEIU three times prior to the filing of the Motion.

The decision in *Local 211 v. Family Snacks, Inc., Official Unsecured Creditors' Comm. (In re Family Snacks, Inc.)*, 257 B.R. 884, 897 (B.A.P. 8th Cir. 2001) shows that the Debtors are not obligated to commence bargaining at the inception of the case. Similar to this case, in *Family Snacks* the debtor commenced negotiations only after it had sold its assets. The *Family Snacks* court held that the debtor's decision to not

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commence negotiations until after the asset sale did not automatically bar the debtor from obtaining relief under § 1113. *Family Snacks*, 257 B.R. at 895–96.

**III. Conclusion**

The final hearing on the Motion shall take place on **July 8, 2020, at 10:00 a.m.**, unless the Debtors and SEIU agree to a further extension of time to facilitate negotiations. The Debtors, SEIU, and Prime shall continue to negotiate in good faith with the objective of consensually resolving the § 1113 issues. By no later than **July 1, 2020, at 5:00 p.m.**, the Debtors and SEIU shall submit final briefs accompanied by appropriate evidence setting forth their positions on those issues that remain in dispute.

The Court will prepare and enter an order setting the final hearing on the Motion.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The hearing on the Motion was initially set for June 3, 2020, on fourteen days' notice pursuant to § 1113(d)(1). On May 20, 2020, the Court issued an order setting SEIU's deadline to file a written opposition to the Motion and providing that the Debtors' reply to SEIU's opposition could be presented orally at the hearing. *See* Doc. No. 4753. To provide the parties additional time to negotiate, on June 2, 2020 the Court approved a stipulated one-week continuance of the initial hearing on the Motion. *See* Doc. No. 4819. To enable the parties to focus their resources upon negotiation, the Court did not order the Debtors to file a reply to SEIU's opposition.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery



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Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

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#7.00 Hearing

RE: [4742] Motion to Reject Lease or Executory Contract /Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with UNAC; Declarations of Richard G. Adcock and Steven Sharrer in Support Thereof

FR. 6-3-20

Docket 4742

**Tentative Ruling:**

6/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the Motion and the papers filed in connection therewith, the Court believes that consensual resolution of the § 1113 issues remains possible. To that end, the Court declines to issue a final ruling on the Motion at this initial hearing. Instead, this tentative ruling provides guidance intended to facilitate and channel further negotiations.

The final hearing on the Motion shall take place on **July 8, 2020, at 10:00 a.m.**, unless the Debtors and UNAC agree to a further extension of time to facilitate negotiations. *See* § 1113(d)(2) (requiring the Court to rule upon an application for modification or rejection of a collective bargaining agreement within thirty days of the initial hearing, unless the parties agree otherwise). By no later than **July 1, 2020, at 5:00 p.m.**, the Debtors and UNAC shall submit final briefs accompanied by appropriate evidence setting forth their positions on those issues that remain in dispute.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with UNAC [Doc. No. 4742] (the "Motion")
  - a) Certificate of Service [Doc. No. 4803]
- 2) Order Setting Briefing Schedule on Section 1113 Motions [Doc. No. 4753]
  - a) Stipulation Continuing Hearing and Deadlines Regarding Debtors' Motions

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- Under Section 1113 of the Bankruptcy Code [Doc. No. 4815]
- b) Order Granting Stipulation Continuing Hearing and Deadlines Regarding Debtors' Motions Under Section 1113 of the Bankruptcy Code [Doc. No. 4819]
  - 3) Objection of UNAC to Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4800]
    - a) Stipulation Regarding Timeliness of UNAC's Objection to Debtor's Motion to Reject Collective Bargaining Agreement [Doc. No. 4809]
    - b) Order Approving Stipulation Regarding Timeliness of UNAC's Objection to Debtor's Motion to Reject Collective Bargaining Agreement [Doc. No. 4817]
  - 4) Notice of Filing of Declarations Pursuant to Court's Scheduling Order in Connection with Debtors Motion to Reject Collective Bargaining Agreement with UNAC Under § 1113 of the Bankruptcy Code [Doc. No. 4845]

## **I. Facts and Summary of Pleadings**

Debtors move for entry of an order authorizing them to reject a collective bargaining agreement (the "CBA") between St. Francis Medical Center ("St. Francis") and the United Nurses Association of California/Union of Health Care Professionals ("UNAC"). UNAC opposes the Motion.

### **A. Background**

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

On February 26, 2020, the Court entered an *Order (1) Approving Auction Sale Format and Bidding Procedures; (2) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (3) Approving Form of Notice to be Provided to Interested Parties; (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases* [Doc. No. 4165] (the "Bidding Procedures Order"). The Bidding Procedures Order established procedures governing the auction (the "Auction") of St. Francis.

The Bidding Procedures Order authorized the Debtors to designate a Stalking Horse Bidder without further order of the Court. The Debtors designated Prime as the Stalking Horse Bidder. The Debtors received bids from potential purchasers, but after consulting with their advisors and the Consultation Parties (as defined in the Bidding Procedures Order), determined that such bids did not constitute Qualified Bids. The Debtors selected

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Prime as the Winning Bidder and did not conduct the Auction.

On April 9, 2020, the Court entered an order authorizing the Debtors to sell St. Francis to Prime. *See* Doc. No. 4511 (the "Sale Order"). Material terms of the Asset Purchase Agreement (the "APA") as they pertain to the CBA are as follows:

4.9. Contract With Unions. (a) ... The applicable Sellers and Purchaser shall each participate in all negotiations related to the potential modification and assignment of specific Seller's collective bargaining agreements to Purchaser. The applicable Sellers shall use commercially reasonable efforts to initiate discussions with Purchaser and unions and conduct discussions to renegotiate each collective bargaining agreement currently in effect with each applicable union. The applicable Sellers will not unreasonably withhold, condition or delay Bankruptcy Court approval of any successfully renegotiated collective bargaining agreement. The Parties recognize that Seller's failure to conclude a successor collective bargaining agreement shall not be a breach of Sellers' obligation under this Agreement or otherwise excuse Purchaser's obligations under this Agreement.

(b) On or before the date that is thirty (30) days after the Sale Order Date, the negotiations pursuant to Section 4.9(a) shall have resulted in each, such labor unions, agreeing to either (i) either modification of the St. Francis related collective bargaining agreements under terms that are to be substantially consistent with the Purchaser's existing and most current collective bargaining agreements with each such respective labor union, and that settle all liabilities under the existing Seller collective bargaining agreements that shall be assigned to Purchaser, provided that there are shall be no cure obligations to the Sellers or (ii) enter into new collective bargaining agreements that are substantially consistent with the Purchaser's existing collective bargaining agreements with each such respective labor union; provided, that if Purchaser and each labor union have not entered into such agreements described in (i) or (ii) above, or have entered into an agreement under (ii), then Sellers shall have the absolute right to file or take any other action to reject and terminate any such collective bargaining agreement and, in such event, the Bankruptcy Court shall have entered an order granting Sellers' requested rejection of such collective bargaining agreement prior to the Closing Date.

APA at § 4.9.

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If Prime and UNAC have not consensually entered into a CBA consistent with § 4.9, Prime is not required to close the sale unless the Debtors have obtained an order authorizing rejection of the existing CBA:

Sellers shall have satisfied, in all material respects, their obligations set forth in Section 4.9(b). For the avoidance of doubt, in the event that Purchaser and each labor union has not entered into an agreement described in Section 4.9(b)(i) or (ii), then material satisfaction of Section 4.9(b) means that Seller has filed or taken action to reject and terminate any such collective bargaining agreement and that the Bankruptcy Court has entered an order granting Seller's requested rejection of such collective bargaining agreement prior to the Closing Date.

APA at § 8.7.

Either the Debtors or Prime may terminate the APA if the sale has not closed on or before September 1, 2020 (the "Termination Date"), except that the Termination Date shall be December 31, 2020 if the only condition to closing that has not been satisfied is the Attorney General's consent to the sale upon conditions consistent with those that the Purchase has agreed to accept. *Id.* at § 9.1(i).

**B. Summary of Papers Filed in Connection with the Motion**

Debtors assert that rejection of the CBA is warranted for the following reasons:

- 1) Thorough marketing of St. Francis produced only the bid from Prime. The Debtors have facilitated negotiations between Prime and UNAC intended to result in the negotiation of a successor CBA between the parties (the "Successor CBA"). The parties did not reach agreement on the terms of a Successor CBA within the 30-day period specified in the APA. Pursuant to the APA, the Debtors now have the absolute right to take action seeking to reject the CBA.
- 2) On May 13, 2020, the Debtors delivered to UNAC a proposal providing for rejection and termination of the CBA (the "Proposal"). Under the Proposal, if UNAC consents to rejection, UNAC employees who are not offered employment by Prime will receive an allowed claim for severance (the "Severance Benefit"). If UNAC contests rejection, the Debtors will withdraw the Severance Benefit.
- 3) The marketing process has demonstrated that the CBA is not economically viable and that neither Prime nor any other entity will acquire St. Francis

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subject to the CBA. Upon the closing of the sale, the Debtors will no longer operate St. Francis and therefore will not need the CBA. Therefore, rejection of the CBA is necessary to permit the Debtors to confirm a liquidating plan by facilitating the closing of the sale of St. Francis. If the CBA is not rejected prior to the closing of the sale, the Debtors will be exposed to a substantial administrative claim. In authorizing the rejection of collective bargaining agreements in connection with the Santa Clara Sale, the Court found that absent rejection the estate would almost certainly be rendered administratively insolvent.

UNAC opposes the Motion for the following reasons:

- 1) The Debtors have failed to negotiate in good faith. The Debtors have refused to meaningfully respond to UNAC's requests for information on the impact that the CBA has on St. Francis' profitability. This refusal is motivated by the Debtors' desire to conceal the fact that St. Francis is profitable even if the CBA remains in effect. The question of projected CBA costs is obviously relevant to whether rejection of the CBA is necessary to facilitate the closing of the sale to Prime. Because the Debtors have failed to provide this information, they cannot demonstrate that rejection of the CBA is necessary to facilitate the sale.
- 2) As a further example of the Debtors' lack of good faith, the Debtors have taken the position that the entirety of the negotiations are protected under Evidence Rule 408. The Debtors' position is not tenable, because the Court cannot determine whether the Debtors have satisfied the requirements of § 1113 if the entire bargaining process is shielded from judicial review.
- 3) The Debtors have attempted to circumvent the requirements of § 1113 by structuring the APA to effectively lock in rejection prior to any meaningful negotiations and by failing to provide UNAC information regarding comparative cost-savings and economic projections necessary to facilitate good-faith negotiations. UNAC has good cause to reject the Proposal because St. Francis is financially viable even without rejection of the CBA.

**C. Discussions Between the Debtors, UNAC, and Prime**

Prior to the filing of the Motion, the Debtors, Prime, and UNAC met and engaged in bargaining on six occasions—on April 22, April 28, May 1, May 5, May 6, and May 8. The Debtors filed the Motion on May 19. After the Motion was filed, the Debtors, Prime,

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and UNAC met and engaged in bargaining on May 19, May 21, May 26, June 2, and June 5. The parties intend to meet again on June 9.

## **II. Findings and Conclusions**

As a preliminary matter, the Court emphasizes that the record is not complete because this is the initial hearing on the Motion, and the Debtors have not yet responded to UNAC's opposition. [Note 1] The findings set forth below are subject to adjustment based upon arguments presented at the hearing. The Court further notes that a motion to modify or terminate a CBA is unlike most motions heard by the Court, in that the statute expressly contemplates that the position of the parties may change as a result of negotiation up until the hearing date. *See* § 1113(b) (requiring the Debtors to meet with the union's authorized representative "at reasonable times" during "the period beginning on the date of the making of the proposal ... and ending on the date of the hearing ...").

The Court declines to rule upon the Motion at the present time. The findings set forth herein are intended to provide guidance to the parties to facilitate and channel further negotiations. "The language and history of section 1113 make clear that the preferred outcome under section 1113 is a negotiated solution rather than contract rejection." *In re AMR Corp.*, 477 B.R. 384, 393 (Bankr. S.D.N.Y. 2012). In the Court's view, a negotiated resolution remains possible and would inure to the benefit of all stakeholders. The Court notes that prior to the failure of the SGM Sale, the Debtors and UNAC were able to consensually resolve issues pertaining to the CBA. The Court is aware that Prime's proposals regarding a future CBA differ in material respects from the terms reached with SGM. Nonetheless, the prior consensual resolution shows that a negotiated solution remains possible.

Section 1113 provides:

- (a) The debtor in possession, or the trustee if one has been appointed under the provisions of this chapter, ... may assume or reject a collective bargaining agreement only in accordance with the provisions of this section.
- (b)
  - (1) Subsequent to filing a petition and prior to filing an application seeking rejection of a collective bargaining agreement, the debtor in possession or trustee (hereinafter in this section "trustee" shall include a debtor in possession), shall—
    - (A) make a proposal to the authorized representative of the employees

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covered by such agreement, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the employee benefits and protections that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

(B) provide, subject to subsection (d)(3), the representative of the employees with such relevant information as is necessary to evaluate the proposal.

(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1) and ending on the date of the hearing provided for in subsection (d)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.

(c) The court shall approve an application for rejection of a collective bargaining agreement only if the court finds that—

(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (b)(1);

(2) the authorized representative of the employees has refused to accept such proposal without good cause; and

(3) the balance of the equities clearly favors rejection of such agreement.

"Bankruptcy cases generally approach this complicated statute by breaking the statute into a nine part test" first set forth in *In re Am. Provision Co.*, 44 B.R. 907, 909 (Bankr. D. Minn. 1984). See *In re Karykeion, Inc.*, 435 B.R. 663, 677 (Bankr. C.D. Cal. 2010); see also *In re Family Snacks, Inc.*, 257 B.R. 884, 892 (B.A.P. 8th Cir. 2001) ("Virtually every court that is faced with the issue of whether a Chapter 11 debtor may reject its collective bargaining agreement utilizes a nine-part test that was first set down by the bankruptcy court in *In re American Provision Co.*"). The *American Provision* factors are as follows:



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- 1) The debtor in possession must make a proposal to the Union to modify the collective bargaining agreement.
- 2) The proposal must be based on the most complete and reliable information available at the time of the proposal.
- 3) The proposed modifications must be necessary to permit the reorganization of the debtor.
- 4) The proposed modifications must assure that all creditors, the debtor and all of the affected parties are treated fairly and equitably.
- 5) The debtor must provide to the Union such relevant information as is necessary to evaluate the proposal.
- 6) Between the time of the making of the proposal and the time of the hearing on approval of the rejection of the existing collective bargaining agreement, the debtor must meet at reasonable times with the Union.
- 7) At the meetings the debtor must confer in good faith in attempting to reach mutually satisfactory modifications of the collective bargaining agreement.
- 8) The Union must have refused to accept the proposal without good cause.
- 9) The balance of the equities must clearly favor rejection of the collective bargaining agreement.

*American Provision*, 44 B.R. at 909.

Courts apply the *American Provision* factors even where a debtor is liquidating its assets and does not intend to continue in business after emerging from bankruptcy. Courts reason that "reorganization," as used in § 1113(b)(1)(A), is "generally understood to include all types of debt adjustment, including a sale of assets, piecemeal or on a going concern basis, under § 363 followed by a plan of reorganization which distributes the proceeds of the sale to creditors in accordance with the Bankruptcy Code's priority scheme." *Family Snacks*, 257 B.R. at 895. Some courts have held that where, as here, the Debtors are liquidating their assets, the phrase "necessary to permit the reorganization of the debtor" means "necessary to achieve a sale under § 363 of the Bankruptcy Code." *Alpha Nat. Res., Inc.*, 552 B.R. 314, 333 (Bankr. E.D. Va. 2016); see also *Walter Energy*, 542 B.R. at 890 (requiring that the debtor's proposal "be necessary to permit ... those modifications necessary to consummate a going-concern sale"); *In re Karykeion, Inc.*, 435 B.R. 663, 679 (Bankr. C.D. Cal. 2010) (finding that the debtor had proven that rejection was necessary when the closing of a § 363 sale was contingent on rejection of a collective bargaining agreement). Others courts have concluded that in a liquidating case, the phrase "necessary to permit reorganization of the debtor" means "necessary to accommodate confirmation of a Chapter 11 plan." *Family*

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*Snacks*, 257 B.R. at 895.

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**Factor 3—Necessary to Permit the Reorganization of the Debtor**

In the context of this case, the term “necessary to permit the reorganization of the debtor” is best interpreted to mean “necessary to permit the Debtors to confirm a liquidating plan.” This interpretation aligns most closely with the manner in which the Debtors are prosecuting this case. From the outset, the Debtors have stated their intent to sell their hospitals and use the proceeds from the sales to fund a plan of liquidation. This process is well underway. The sales of O’Connor Hospital, St. Louise Regional Medical Center, and St. Vincent Medical Center have all closed.

The closing of the sale of St. Francis to Prime is essential to the Debtors’ ability to confirm a liquidating plan. The failure of the prior sale of St. Francis to Strategic Global Management, Inc. has made confirmation of a liquidating plan more challenging by requiring the Debtors to remain in bankruptcy for far longer than had been anticipated. To satisfy Factor 3, the Debtors must demonstrate that rejection of the CBA is a prerequisite to the closing of the sale.

The Debtors assert that Factor 3 is satisfied because under the APA, if Prime has not entered into an agreement with UNAC within thirty days after entry of the Sale Order, Prime is not required to close the sale unless the CBA has been rejected. The Debtors maintain that their proposal to UNAC to reject the CBA has been made in good-faith (Factor 7) because Prime’s refusal to acquire St. Francis subject to the CBA is beyond the Debtors’ control. The Debtors cite *In re Walter Energy, Inc.*, 542 B.R. 859, 885 (Bankr. N.D. Ala. 2015), which held that a debtor’s proposal to reject a CBA was in good faith where the only bidder willing to acquire the assets was unwilling to do so unless the CBA was rejected.

If UNAC and Prime can agree upon the terms of a Successor CBA, it will not be necessary for the Debtors to obtain an order rejecting the CBA. The fact that UNAC and Prime did not agree upon a Successor CBA within thirty days after entry of the Sale Order does not foreclose the possibility of the parties reaching an agreement prior to the closing of the sale. There is still ample time for negotiations to take place. The deadline for the sale to close is September 1, 2020 if the Attorney General consents to the sale upon conditions acceptable to Prime; if the Attorney General does not so consent, the deadline is December 31, 2020. It would be premature for the Court to find that rejection of the CBA is necessary to facilitate the closing of the sale.

In a declaration filed on June 8, 2010, An N. Ruda, the Debtors’ Chief Labor Negotiator, testifies that “finality of a rejection of the CBA between UNAC and Debtor SFMC would likely motivate [Prime and UNAC] to bridge their differences and achieve

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a new CBA prior to Closing.” Ruda Decl. [Doc. No. 4845] at ¶ 15. The Court does not agree with Ruda’s assessment. In the Court’s view, the best means of facilitating a Successor CBA between UNAC and Prime—and therefore eliminating the necessity for the Debtors to obtain an order rejecting the CBA—is to defer ruling on the Motion. Deferral of a ruling provides all parties an incentive to attempt to resolve their differences consensually.

**Factors 2 and 5—Complete Information**

Factor 2 requires that the Debtors’ proposal be based on the most complete and reliable information available at the time the proposal is made. Factor 5 requires that the Debtors provide UNAC with “such relevant information as is necessary to evaluate the proposal.” For both factors, a debtor “must gather the ‘most complete information at the time and ... base its proposal on the information it considers reliable,’ excluding ‘hopeful wishes, mere possibilities and speculation.’ ‘The breadth and depth of the requisite information will vary with the circumstances, including the size and complicacy of the debtor’s business and work force; the complexity of the wage and benefit structure under the collective bargaining agreement; and the extent and severity of modifications the debtor is proposing.’” *In re Walter Energy, Inc.*, 542 B.R. 859, 886 (Bankr. N.D. Ala. 2015), *aff’d sub nom. United Mine Workers of Am. 1974 Pension Plan & Tr. v. Walter Energy, Inc.*, 579 B.R. 603 (N.D. Ala. 2016), *aff’d sub nom. In re Walter Energy, Inc.*, 911 F.3d 1121 (11th Cir. 2018) (internal citations omitted).

UNAC has requested formal financial audits and annual reports for St. Francis for fiscal years 2016 through 2019 and projections for fiscal year 2020 and fiscal year 2021. In response to this request, the Debtors provided UNAC with links to the Monthly Operating Reports filed in the bankruptcy case. The Debtors declined to provide further information, asserting that the information sought was “irrelevant” given that the APA does not require Prime to close the sale unless (a) UNAC negotiates a collective bargaining agreement substantially consistent with UNAC’s existing agreements at other Prime hospitals or (b) the Debtors obtain rejection of the CBA. According to the Debtors:

[T]he [requests for information] cover the Debtors’ historic operational and employment issues and, as such, are not relevant or necessary to UNAC’s evaluation of [the] proposed collective bargaining agreement ... provided to UNAC by Prime. In fact, the issue at hand is whether Prime and UNAC can reach agreement on a new or modified CBA under terms agreeable to Prime and UNAC. If that cannot occur within 30 days, the Debtors, which will no longer be operating St. Francis Medical Center upon the sale closing to Prime, are

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authorized to seek rejection its UNAC CBA.

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E-mail from Sam J. Alberts to Max Carbucci et al. dated April 28, 2020, at 8:56 a.m. [Doc. No. 4800, Ex. 8].

The Debtors reiterated this objection in response to UNAC's request for information regarding DSH funding received by St. Francis in 2016–2019, St. Francis' receivables for 2019 and 2020, and the amount of total cost savings that Prime's proposal would achieve versus the existing CBA. The Debtors have provided to UNAC a one-page document captioned "SFMC—Normalized PL Analysis" (the "PL Statement") that contains financial data for fiscal years 2017–2019 and data for the trailing twelve months as of February 2020 and March 2020. The PL Statement contains line items for "Salaries and Wages," "Registry Labor," and "Contract Labor," but does not itemize labor costs attributable to UNAC.

The cursory financial information provided by the Debtors to UNAC is not sufficient. As explained in the discussion of Factor 3, a Court order authorizing rejection of the CBA will not be necessary if UNAC and Prime succeed in negotiating a Successor CBA. In order to evaluate a Successor CBA, UNAC must have access to information showing the cost savings Prime would achieve under the Successor CBA versus the existing CBA. Prime is in the best position to provide such information. However, the Court recognizes that under § 1113, the obligation to provide information is directed toward the Debtors, not Prime. *See Walter Energy*, 542 B.R. at 896 ("To satisfy the second and fifth procedural requirements, a debtor need only provide that information that is within its power to provide."). If Prime fails to provide information regarding cost savings in connection with future operations, the Debtors are obligated to provide UNAC historical information showing the amount of St. Francis' labor costs that are attributable to the CBA. **[Note 2]** UNAC is entitled to information allowing it to assess the economic impacts of the CBA upon the continued operation of St. Francis.

The Court has only limited knowledge of the financial information maintained by the Debtors and so is not in a position to delineate precisely the financial information that must be provided. The Court can say with confidence that the PL Statement is inadequate. St. Francis is being sold for approximately \$276 million. In connection with the sale, the Debtors have been advised by Cain Brothers, an experienced investment firm. The Debtors provided parties interested in bidding for St. Francis with access to a data room. Clearly it is well within the Debtors' ability to provide more than the one-page PL Statement.

The Debtors' failure to provide sufficient information to UNAC means that the Debtors cannot carry their burden of proof with respect to Factor 4 (rejection of the CBA

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treats all parties fairly and equitably), Factor 8 (UNAC has refused to accept the Debtors' proposal without good cause), or Factor 9 (the balance of the equities favors rejection). The Court cannot make findings with respect to any of these factors in the absence of information regarding the portion of St. Francis' costs that are attributable to the CBA.

**Factor 7—Good Faith Negotiations**

Factor 7 requires that the Debtors meet and confer with UNAC in good faith. "The good faith requirement under section 1113 has been interpreted to mean that the debtor must make a serious effort to negotiate." *Walter Energy*, 542 B.R. at 894.

According to UNAC, the Debtors' position that the negotiation process should remain confidential pursuant to Evidence Rule 408 establishes that the Debtors are not negotiating in good faith. The Court does not agree with UNAC's contention that the Debtors' invocation of Evidence Rule 408 is an "absurd position" that has "corrupted" the bargaining process. Doc. No. 4800 at 27.

UNAC is correct that some aspects of the § 1113 negotiations must be disclosed in order for the Court to determine whether the statute's requirements have been satisfied. Obviously, if all negotiations remain confidential, the Court could not determine whether the Debtors have made "a serious effort to negotiate." *Walter Energy*, 542 B.R. at 894. On the other hand, courts have recognized that confidentiality can facilitate § 1113 negotiations. In *In re AMR Corp.*, 478 B.R. 599, 608 (Bankr. S.D.N.Y. 2012), the court held that the introduction of evidence of certain conversations conducted in an attempt to settle § 1113 issues "would have a significant chilling effect on the parties' attempts to reach negotiations solutions to the problems of Section 1113" and would "add yet another obstacle to what all agree is already an exceedingly difficult process."

The upshot is that while the assertion that *all* § 1113 negotiations must remain confidential goes too far, there is a place for confidentiality in the § 1113 negotiating process. Having not been privy to the negotiations between the Debtors, UNAC, and Prime, the Court is not in a position to specify with particularity the types of information that could appropriately be deemed confidential. The Court finds it worth emphasizing that in connection with the failed SGM Sale, the Debtors and UNAC were able to consensually resolve § 1113 issues without confidentiality becoming an issue.

**III. Conclusion**

The final hearing on the Motion shall take place on **July 8, 2020, at 10:00 a.m.**, unless the Debtors and UNAC agree to a further extension of time to facilitate negotiations. The Debtors, UNAC, and Prime shall continue to negotiate in good faith

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with the objective of consensually resolving the § 1113 issues. By no later than **July 1, 2020, at 5:00 p.m.**, the Debtors and UNAC shall submit final briefs accompanied by appropriate evidence setting forth their positions on those issues that remain in dispute.

The Court will prepare and enter an order setting the final hearing on the Motion.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The hearing on the Motion was initially set for June 3, 2020, on fourteen days' notice pursuant to § 1113(d)(1). On May 20, 2020, the Court issued an order setting UNAC's deadline to file a written opposition to the Motion and providing that the Debtors' reply to UNAC's opposition could be presented orally at the hearing. *See* Doc. No. 4753. To provide the parties additional time to negotiate, on June 2, 2020 the Court approved a stipulated one-week continuance of the initial hearing on the Motion. *See* Doc. No. 4819. To enable the parties to focus their resources upon negotiation, the Court did not order the Debtors to file a reply to UNAC's opposition.

**Note 2**

The statute's structure does not mean Prime can refuse to respond to all of UNAC's requests for information. The Debtors have sought rejection of the CBA based upon language in the APA that Prime itself negotiated for. It is necessary for the Debtors to seek rejection only because UNAC and Prime have been unable to agree upon a Successor CBA. Under these circumstances, it is incumbent upon Prime—who benefits from the APA and the Debtors' attempts to reject the CBA—make a good-faith effort to provide at least some information to UNAC.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel

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John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

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**#8.00** Hearing

RE: [24] Motion LCI Group Limited LLC's Motion to Extend the Deadlines Set by This Court in Its January 28, 2020 Order Denying Motion for Relief from the Automatic Stay Under 11 U.S.C. Section 362 [Docket no.: 19] Declarations of Larry Underwood, Keith Kelly and Michael Jay Berger in Support Thereof

fr. 6-9-20

Docket 24

**Tentative Ruling:**

6/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is DENIED. The January 28 Order still stands, subject to the parties' stipulation.

**Pleadings Filed and Reviewed**

- 1) Order Denying Motion for Relief from the Automatic Stay under 11 U.S.C. § 362 [Doc. No. 19] (the "January 28 Order")
- 2) LCI Group Limited LLC's Motion to Extend the Deadlines Set by the Court in its January 28, 2020 Order [Doc. No. 24] (the "Motion")
  - a) Declaration of Lawrence Underwood
  - b) Declaration of Keith Kelley
  - c) Declaration of Michael Jay Berger
- 3) Opposition of So-Cal Capital, Inc. to Debtor's Motion to Extend Deadlines Set by this Court in its January 28, 2020 Order [Doc. No. 28] ("Opposition")
- 4) LCI Group Limited LLC's Reply to the Opposition [Doc. No. 29] (the "Reply")



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### **I. Facts and Summary of Pleadings**

LCI Group Limited, LLC (the “Debtor”) filed a voluntary chapter 11 petition on December 19, 2019 (the “Petition Date”) [Doc. No. 1]. The Debtor’s only significant asset consists of an ownership interest in real property located at 15 Upper Blackwater Canyon Road, Rolling Hills, CA 90274 (the “Property”).

On Schedule D, the Debtor listed the secured claim of So-Cal Capital, LLC (the “Movant”), the holder of a first-priority deed of trust on the Property, in the amount of \$4,331,518. *See* Doc. No. 1. In addition to the Movant’s interest, the Los Angeles County Treasurer and Tax Collector and the Rolling Hills Community Association hold secured claims against the Property, in the amounts of \$61,918.18 and \$11,255.34 respectively, and the Internal Revenue Service asserts an unsecured priority claim totaling \$1,200. *See id.*; *see also* Claims Register. The Debtor’s bankruptcy was commenced to halt a foreclosure sale initiated by the Movant, given that the Debtor had not made payments on the Property since July 2019. Declaration of Lawrence Underwood [Doc. No. 24] (“Underwood Decl.”), ¶ 7.

On January 6, 2020, the Movant filed a motion for relief from the automatic stay, seeking to regain possession of the Property (the “Stay Relief Motion”). The Debtor opposed the Stay Relief Motion. On January 28, 2020, the Court denied the Stay Relief Motion, subject to certain conditions to be fulfilled by the Debtor (the “January 28 Order”). More specifically, the Court instructed the Debtor to obtain an order contemplating the sale of the Property by no later than June 15, 2020. Pursuant to the January 28 Order, the Debtor was required to close the sale of the Property by no later than July 15, 2020. The findings and conclusions with respect to the Stay Relief Motion may be found in the Court’s final ruling [Doc. No. 17], which the Court incorporates herein by reference.

#### **Summary of the Motion**

On May 15, 2020, the Debtor filed a *Motion to Extend the Deadlines Set by this Court in its January 28, 2020 Order Denying Motion for Relief from the Automatic Stay under 11 U.S.C. § 362* (the “Motion”). The Motion is supported by declarations submitted by the Debtor’s bankruptcy counsel, real estate broker, and Lawrence Underwood (“Underwood”), the Debtor’s managing member. In seeking an extension of the above-referenced deadlines (the “Deadlines”), the Debtor makes the following

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arguments and representations:

The Debtor requests at least a six-month extension of the Deadlines, in light of the stresses caused by COVID-19 on the luxury real estate market. Although the Debtor has “made every effort” to comply with the January 28 Order, the healthcare crisis has made it impossible and unrealistic to comply with said order. The Debtor has worked closely with Keith Kelley (“Kelley”) of Palm Realty Boutique to aggressively market the Property, which is currently listed for sale at \$6,950,000, although initially valued between \$7,000,000 and \$7,950,000. The Debtor’s efforts to sell the Property include setting up “multiple showings per week prior to COVID-19,” and more recently making available a virtual tour and walkthrough videos of the Property. However, even with the availability of virtual showings, the reality is that potential buyers will not make an offer without inspecting the Property in person. Declaration of Keith Kelley (“Kelley Decl.”), ¶ 4. Although “several potential buyers” were interested in the Property at one point, including one businessman from China, the Debtor was not able to secure any offers. Underwood Decl., ¶ 8. Subsequent to the COVID-19 lockdown, a “potential buyer” cancelled a showing three weeks ago, and more recently, two showings took place last week. Kelley Decl., ¶ 4. Prior to filing the Motion, the Debtor attempted to enter into a stipulation with the Movant without success.

The request to postpone the Deadlines is only premised on the Court’s equitable powers under 11 U.S.C. § 105(a). Except for a Bankruptcy Appellate Panel decision that recites the provisions under § 105(a), the Debtor has not cited any authority supporting its proposed application of the Bankruptcy Code.

**Summary of the Opposition**

On May 26, 2020, the Movant submitted a timely response to the Motion [Doc. No. 28] (the “Opposition”). The Opposition is supported by the declaration of Patrick Lacy (“Lacy”), who is employed by the Movant and oversees servicing of Debtor’s loan to the Movant. Declaration of Patrick Lacy (“Lacy Decl.”), ¶ 1. The Movant advances the following points in opposition:

The Court should deny the Motion for three reasons: (1) the deadline to appeal the January 28 Order has elapsed; (2) there is no cause to reconsider the January 28 Order; and (3) and any such extension of the Deadlines would cause disproportionate harm to the Movant. First, as determined in *Ritzen Grp., Inc. v. Jackson Masonry, LLC*, 140 S. Ct. 582 (2020), a stay relief order constitutes a “final, appealable order.” Moreover, pursuant to Fed. R. Bank. P. 8002, a notice of appeal must be filed with the

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bankruptcy clerk within 14 days of the order being appealed. Accordingly, the Debtor failed to file an appeal of the January 28 Order by the deadline of February 11, 2020. Second, the Debtor presents no authority for its argument that the Court may rely on § 105(a) to reconsider the January 28 Order. Additionally, a review of the supporting declarations indicates that the Debtor’s marketing efforts have only generated four showings—two pre-shutdown and two post-shutdown—and elicited no offers. Based on Lacy’s declaration, Kelley, along with co-broker Gordon Inman, have participated in four of the eight post-COVID-19 real estate sales in the Rolling Hills Area. *See* Lacy Decl., ¶ 4. For instance, the residence located at 8 Upper Blackwater Canyon Road, Rolling Hills, CA (“8 Upper Blackwater Canyon Road”), one block away from the Property, was sold on or about May 12, 2020 for \$4,720,000, following a significant price drop. Lacy Decl., ¶¶ 4-5, Ex. C (MLS Listing for 8 Upper Blackwater Canyon Road). This motion is another “empty promise” by the Debtor to enable Underwood to live rent-free in luxury. Notably, in an e-mail from Underwood to the Movant, dated December 17, 2019, Underwood claimed that he was confident the Property would be sold within thirty days. *See* Lacy Decl., ¶ 7; Ex. F. The Property has already been exposed to the market for a period of approximately ten months, and the reason that it has not been purchased yet is due to Debtor’s unrealistic asking price, both before and after COVID-19. Third, the equity in the Property has been severely impacted by the pandemic, and the Motion must be denied to permit Movant to protect its secured interest by immediately selling the Property.

**Summary of the Reply**

The Debtor submitted a timely response to the Opposition, asserting the following arguments and representations:

The Opposition is not persuasive as it fails to consider several critical facts. First, the Debtor is taking steps to maintain the Property and protect the substantial equity contained therein. Second, the Movant paints an inaccurate picture of the 2020 luxury real estate market. Although it is true that several neighboring properties around the Property have been recently sold, the real estate market in Los Angeles County has fallen by about 45% this year, compared to the number of homes sold in 2019 during the same period. *See* Supplemental Declaration of Keith Kelley (“Kelley Supp. Decl.”), ¶ 4. Additionally, only one residence in the Rolling Hills area has sold for over \$5 million this year, compared to the three sold in 2019. *Id.* Kelley provides further anecdotal commentary in support of the proposition that the real estate market in Rolling Hills changes from year to year. *See id.* at ¶¶ 4-5. Based on Kelley’s experience as a broker, it is not that “luxury real estates are not worth the price they are asking, but rather that it is

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taking longer to find the interested buyers because of Covid-19's impact." *Id.* at ¶ 4. Notably, the Debtor had a written offer last week for \$5,130,000 and another showing was scheduled for June 4, 2020. *Id.* at ¶ 5. Last, according to Underwood, the Debtor is willing to lower its asking price to facilitate the sale of the Property. Supplemental Declaration of Underwood, ¶ 3.

## II. Findings of Fact and Conclusions of Law

The issue presently before the Court is whether the Court should exercise its equitable powers to extend certain deadlines associated with the sale of the Property. Said deadlines were established as part of the Court's denial of the Stay Relief Motion by way of the January 28 Order. The January 28 Order provides in relevant part:

The Motion is DENIED, subject to the condition that Debtor must obtain an order authorizing sale of the Property by no later than June 15, 2020, either through a sale motion or approval of a Chapter 11 plan that provides for the Property's sale. The sale of the Property must close by no later than July 15, 2020. If the Debtor fails to comply with either deadline, the Court will grant the stay-relief requested in the Motion, without further notice or hearing. In the event the Debtor fails to comply with these deadlines, Movant shall submit a declaration so attesting, accompanied by a proposed order lifting the automatic stay. The Court adopts its tentative ruling [Doc. No. 17] as the final ruling and incorporates herein, in full, by reference.

*See* Doc. No. 19.

An order granting or denying a motion for relief from the automatic stay is a final order. *In re Greenstein*, 576 B.R. 139, 170 (Bankr. C.D. Cal. 2017), *aff'd*, 589 B.R. 854 (C.D. Cal. 2018), *aff'd*, 788 F. App'x 497 (9th Cir. 2019) (citing *Samson v. W. Capital Partners, LLC (In re Blixseth)*, 684 F.3d 865, 866 n.1 (9th Cir. 2012)). A final order of the court cannot be collaterally attacked. *Id.*; *Heritage Pac. Fin. LLC v. Machuca (In re Machuca)*, 483 B.R. 726, 733 (9th Cir. B.A.P. 2012). While § 105(a) of the Bankruptcy Code authorizes courts to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title," the equitable powers assigned to bankruptcy courts are limited when it comes to a request to reconsider a final order. "Despite the broad grant of equitable powers, bankruptcy courts cannot use them 'to defeat clear statutory language, nor to reach results inconsistent with the statutory scheme established by the Code.'" *In re Reinertson*, 241 B.R. 451, 455 (B.A.P. 9th Cir.

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1999) (quoting *Committee of Creditors Holding Unsecured Claims v. Koch Oil Co. (In re Powerine Oil Co.)*, 59 F.3d 969, 973 (9th Cir.1995). “The bankruptcy court’s inherent power to reconsider orders has been merged into the Federal Rules of Bankruptcy Procedure and the Federal Rules of Civil Procedure.” *Id.* at 456 (bankruptcy court abused its discretion when vacating an order on a reaffirmation agreement under § 105(a), without regard to Civil Rule 60(b)).

As an initial matter, the Court deems the request to extend the Deadlines under § 105(a) as a collateral attack of the January 28 Order, which is a final order on a relief from stay motion. However, even if the Court were to construe the Motion as a direct attack against the January 28 Order, the Debtor has not persuaded the Court that (a) it has been impossible and unrealistic to timely sell the Property, even in light of COVID-19, or (b) that the Property stands a better chance of being sold in the next six months.

The Debtor has had ample opportunity to market and sell the Property, before and after the restrictions resulting from the COVID-19 pandemic. The Court notes that the Debtor did not dispute the contention that the Property has been listed for sale since August 5, 2019. *See* Lacy Declaration, ¶ 7. At the outset of this case, the Debtor readily moved to retain the services of bankruptcy counsel and a real estate broker to accomplish the sale. Even after shutdown, the Debtor continued to have an opportunity to market the Property, and it did so by, *inter alia*, organizing virtual tours, contacting potential buyers, and decreasing the asking price for the Property from \$7,950,000 to \$6,950,000. Through its efforts, the Debtor was able to show the Property to potential buyers, and it received recent indications of interest and even a written offer for \$5,130,000. Because it has had a meaningful opportunity to sell the Property, the Debtor’s inability to comply with the Deadlines arises from the strategy to sell the Property for an infeasible asking price. The Court further notes that despite present market conditions luxury residences in the Rolling Hills area have continued to sell, even after the COVID-19 shutdown. In fact, one of these residences was brokered and sold by Kelley, in roughly the same location as the Property, for \$4,720,000, following a significant price decrease. *See* Lacy Decl., ¶¶ 4-5; Kelley Supp. Decl., ¶ 4. Although the Debtor promises to lower the asking price on the Property, this action should have contemplated earlier, not only because of COVID-19, but also given that the Debtor and its professionals recognized the volatility of the luxury real estate market. Accordingly, the Debtor acknowledged such volatility in the Reply:

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Each year the sale of luxury real estate changes in Rolling Hills because the area is so diverse in the type of properties it offers. In the past there were lot of equestrian people buying luxury real estate with horse facilities and were ready to pay the premium price to purchase. Another year the Rolling Hills saw a drastic increase in buying luxury real estate with an ocean view.

Reply at 3. And based on the Debtor's marketing strategy, it is unclear whether the Property stands a better chance of being sold in the next six months. Critically, a potential resurgence of COVID-19 cases in the months to come could result in an even more depressed market for luxury residences. In light of the uncertainty caused by the pandemic, the Debtor's promises to sell the Property "as soon as possible" are not well justified. Relatedly, the Debtor's inability to accomplish the sale of the Property creates uncertainty as to whether Movant's interest therein remains adequately protected.

In sum, the depressed market for upscale residences in the Los Angeles area may be depressed for some time to come. COVID-19 has added to the downward pressure, but it is not the sole cause. If the Debtor receives any financially workable offers on the Property, the parties would be strongly encouraged to enter into a stipulation extending the Deadlines. However, absent any indication that the Property will be imminently sold, the Court declines to reconsider the January 28 Order.

### **III. Conclusion**

Based upon the foregoing, the Motion is DENIED. The January 28 Order still stands, subject to the parties' stipulation.

The Debtor shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

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**Debtor(s):**

LCI Group Limited LLC

Represented By  
Michael Jay Berger

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**2:19-23315 Antony Calix Garcia**

**Chapter 7**

**#1.00** Reaffirmation Hearing Date Set  
RE: [22] Pro se Reaffirmation Agreement Between Debtor and JPMorgan Chase Bank, N.A. (Delmotte, Joseph)

Docket 22

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-2020 AT 10:00 A.M.**

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

Antony Calix Garcia	Pro Se
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**Trustee(s):**

Howard M Ehrenberg (TR)	Pro Se
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10:00 AM

**2:19-25072 Susan Beth Lall-Yepez**

**Chapter 7**

**#2.00** Reaffirmation Hearing Date Set  
RE: [8] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Rafferty, John)

Docket 8

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-2020 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Susan Beth Lall-Yepez

Represented By  
Michael E Clark

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
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**Thursday, June 11, 2020**

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10:00 AM

**2:20-10063 Nathaly Moreno**

**Chapter 7**

**#3.00** Reaffirmation Hearing Date Set  
RE: [10] Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance, a division of Capital One, N.A.

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Nathaly Moreno

Represented By  
Clifford Bordeaux

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

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10:00 AM

**2:20-10433 Ana Julia Lopez**

**Chapter 7**

**#4.00** Reaffirmation Hearing Date Set  
RE: [10] Pro se Reaffirmation Agreement Between Debtor and Santander  
Consumer USA Inc. dba Chrysler Capital as servicer for CCAP Auto Lease Ltd.

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT10:00 A.M.**

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

**Debtor(s):**

Ana Julia Lopez

Pro Se

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
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**Thursday, June 11, 2020**

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10:00 AM

**2:20-10749 Marvin Lee Barnett**

**Chapter 7**

**#5.00** Reaffirmation Hearing Date Set  
RE: [10] Pro se Reaffirmation Agreement Between Debtor and Nissan Motor  
Acceptance Corp (Suri, Mukta)

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Marvin Lee Barnett Pro Se

**Trustee(s):**

Brad D Krasnoff (TR) Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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**Thursday, June 11, 2020**

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10:00 AM

**2:20-11083 Craig P Smith and Alyx Morgan**

**Chapter 7**

**#6.00** Reaffirmation Hearing Date Set  
RE: [11] Pro se Reaffirmation Agreement Between Debtor and Partners Federal Credit Union

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Craig P Smith

Represented By  
Eliza Ghanooni

**Joint Debtor(s):**

Alyx Morgan

Represented By  
Eliza Ghanooni

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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**2:20-11083 Craig P Smith and Alyx Morgan**

**Chapter 7**

**#7.00** Reaffirmation Hearing Date Set  
RE: [12] Pro se Reaffirmation Agreement Between Debtor and Partners Federal Credit Union

Docket 12

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Craig P Smith

Represented By  
Eliza Ghanooni

**Joint Debtor(s):**

Alyx Morgan

Represented By  
Eliza Ghanooni

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
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**Thursday, June 11, 2020**

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10:00 AM

**2:20-11205 Blanca Rivera**

**Chapter 7**

**#8.00** Reaffirmation Hearing Date Set  
RE: [10] Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Suri, Mukta)

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 A.M.**

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

**Debtor(s):**

Blanca Rivera

Pro Se

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

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Los Angeles  
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**Hearing Room 1568**

10:00 AM

**2:20-11229 Mikhael Angel Osorio**

**Chapter 7**

**#9.00** Reaffirmation Hearing Date Set  
RE: [13] Pro se Reaffirmation Agreement Between Debtor and Santander  
Consumer USA Inc., dba Chrysler Capital

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Mikhael Angel Osorio

Represented By  
Glenn Ward Calsada

**Trustee(s):**

Timothy Yoo (TR)

Pro Se



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10:00 AM

**2:20-11715 Natasha Alexandria Gagarin**

**Chapter 7**

**#10.00** Reaffirmation Hearing Date Set  
RE: [13] Pro se Reaffirmation Agreement Between Debtor and Americredit Financial Services, Inc. Dba GM Financial (Nunez, Lorenzo)

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 AM.**

**Party Information**

**Debtor(s):**

Natasha Alexandria Gagarin

Represented By  
Louis J Esbin

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
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**Thursday, June 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11747 Jose Luis Aubert**

**Chapter 7**

**#11.00** Reaffirmation Hearing Date Set  
RE: [10] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Suri, Mukta)

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 AM.**

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

**Debtor(s):**

Jose Luis Aubert

Pro Se

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
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**Thursday, June 11, 2020**

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10:00 AM

**2:20-12202 Richard Ochoa Telles**

**Chapter 7**

**#12.00** Reaffirmation Hearing Date Set  
RE: [8] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Rafferty, John)

Docket 8

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Richard Ochoa Telles

Represented By  
Daniela P Romero

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Thursday, June 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12348 Edward R Wedding**

**Chapter 7**

**#13.00** Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and AMERICAN HONDA  
FINANCE CORPORATION

Docket 9

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 AM.**

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

Edward R Wedding	Pro Se
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**Trustee(s):**

Wesley H Avery (TR)	Pro Se
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**Thursday, June 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12479 Rosalind Rosa**

**Chapter 7**

**#14.00** Reaffirmation Hearing Date Set  
RE: [11] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 A.M.**

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

Rosalind Rosa

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Thursday, June 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12631 Maria Rosario Cruz**

**Chapter 7**

**#15.00** Reaffirmation Hearing Date Set  
RE: [10] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Suri, Mukta)

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-6-20 AT 10:00 A.M.**

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

**Debtor(s):**

Maria Rosario Cruz

Represented By  
Daniela P Romero

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
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Judge Ernest Robles, Presiding  
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**Monday, June 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13620 Julio Roberto Vargas Dieguez**

**Chapter 7**

**#1.00** HearingRE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Honda Accord, VIN: 1HGC R2F3 1EA2 04163 .

Docket 12

**Tentative Ruling:**

6/11/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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**Monday, June 15, 2020**

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10:00 AM

**CONT... Julio Roberto Vargas Dieguez**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Julio Roberto Vargas Dieguez

Represented By  
Christopher J Langley

**Trustee(s):**

Heide Kurtz (TR)

Pro Se



**United States Bankruptcy Court  
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**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-17889 Manuel J. Leon, Jr.**

**Chapter 7**

Adv#: 2:18-01157      Gonzalez v. Leon Cruz

**#1.00** Status Conference re **consummation of the settlement** RE: [1] Adversary case 2:18-ap-01157. Complaint by Rosendo Gonzalez against Ramona Leon Cruz. (Charge To Estate). Complaint for Avoidance and Recovery of Fraudulent and Preferential Transfers Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Shinbrot, Jeffrey)

fr. 3-12-19; 6-11-19

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 6-5-20**

**Tentative Ruling:**

- NONE LISTED -

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

Manuel J. Leon Jr.

Represented By  
Gary Leibowitz  
Jacqueline D Serrao

**Defendant(s):**

Ramona Leon Cruz

Pro Se

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-23176 Kevin Thomas Roy**

**Chapter 7**

Adv#: 2:17-01008 Schrauwers et al v. Roy

**#2.00** Status Hearing

RE: [1] Adversary case 2:17-ap-01008. Complaint by Jennifer Schrauwers , Laura Twors , Cintia Kumalo against Kevin Thomas Roy . willful and malicious injury))

fr: 4-11-17; 7-11-17; 6-6-18; 9-11-18; 1-15-19; 6-11-19; 12-10-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-2021 AT 10:00 A.M.**

**Tentative Ruling:**

6/15/2020

Order entered. Status conference **CONTINUED to March 9, 2021, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

Kevin Thomas Roy

Represented By  
Robert Reganyan

**Defendant(s):**

Kevin Thomas Roy

Pro Se

**Plaintiff(s):**

Jennifer Schrauwers

Represented By  
Eric V Traut

Laura Twors

Represented By  
Eric V Traut

Cintia Kumalo

Represented By  
Eric V Traut

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01394 Elissa D. Miller, solely in her capacity as chapte v. Grandmaison

**#3.00** Status Conference to monitor consummation of settlement agreement  
RE: [1] Adversary case 2:18-ap-01394. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Grandmaison Construction, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

fr. 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-2-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Grandmaison Construction, Inc., a

Represented By  
Mark T Young

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01399 Elissa D. Miller, solely in her capacity as chapte v. Old World Precast, Inc., a

**#4.00** Status Conference to monitor consummation of the settlementPre-Trial Conference  
RE: [1] Adversary case 2:18-ap-01399. Complaint by Elissa D. Miller, solely in her  
capacity as chapter 7 trustee against Old World Precast, Inc., a California  
corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of  
Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3)  
Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of  
Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13  
(Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

fr: 10-15-19; 3-10-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M**

**Tentative Ruling:**

6/15/2020

Order entered. Status conference **CONTINUED to September 15, 2020, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Old World Precast, Inc., a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01407 Elissa D. Miller, solely in her capacity as chapte v. HD Supply Construction

**#5.00** Status Conference to monitor consummation of the settlementPre-Trial Conference  
RE: [1] Adversary case 2:18-ap-01407. Complaint by Elissa D. Miller, solely in her  
capacity as chapter 7 trustee against HD Supply Construction Supply Group, Inc., a  
Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and  
Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and  
(3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547  
preference)) (Lev, Daniel)

FR. 10-15-19; 3-10-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

6/15/2020

Order entered. Status conference **CONTINUED to August 11, 2020, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

HD Supply Construction Supply

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

Daniel A Lev  
Asa S Hami  
Jessica Vogel



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01370 Mastan, Chapter 7 Trustee v. Royal Textile Print, Inc.

**#6.00** Pretrial Conference  
RE: [1] Adversary case 2:19-ap-01370. Complaint by Peter J. Mastan, Chapter 7 Trustee against Royal Textile Print, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Royal Textile Print, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#7.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01495. Complaint by Rosendo Gonzalez against Charlton Lui, Catalyst Trust, CP WW Ventures Inc, CTC Investment Holdings LLC, Primo Hospitality Group, Inc., Hovahannes Tshavrushyan. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Weil, Diane)

FR. 4-15-20

FR. 2-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 6-15-2020**

**Tentative Ruling:**

6/15/2020

Order entered. Status Conference **VACATED**. As set forth in the Order, a continued Status Conference will be set in the Scheduling Order issued in connection with the First Amended Complaint.

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

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe

Represented By  
Michael Jay Berger

**Defendant(s):**

Charlton Lui

Pro Se

Catalyst Trust

Pro Se

CP WW Ventures Inc

Pro Se

CTC Investment Holdings LLC

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Primo Hospitality Group, Inc. Pro Se

Hovahannes Tshavrushyan Pro Se

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Diane C Weil

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01036 Howard M. Ehrenberg, Chapter 7 Trustee v. Leem

**#8.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01036. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Alvin Leem. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 AM

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

Alvin Leem

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston  
Steven Werth  
Mark S Horoupian

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01453 Mastan (TR) v. Zendedel

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01453. Complaint by Peter J. Mastan (TR) against Nazila Zendedel. (Charge To Estate). Complaint for: (1) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.07]; (2) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.05, 3439.07]; (3) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (4) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (5) Turnover of Property [11 U.S.C. § 362] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)),(91 (Declaratory judgment)) (Mang, Tinho)

fr. 1-14-20; 4-14-20

Docket 1

**Tentative Ruling:**

6/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On January 18, 2019 (the "Petition Date"), Bahram Zendedel ("Debtor") filed a voluntary Chapter 7 petition. Debtor scheduled a community interest in real property located at 1712 Livonia Avenue, Los Angeles, CA 90035 (the "Property").

On May 16, 2018 (prior to the Petition Date), Debtor executed a quitclaim deed transferring the Property to Nazila Zendedel ("Nazila") [**Note 1**] as her sole and separate property.

On May 28, 2019, the Chapter 7 Trustee (the "Trustee") filed a complaint against

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Bahram Zendedel**

**Chapter 7**

Nazila, seeking to avoid and recover the transfer of the Property (the “Nazila Complaint”). As an affirmative defense, Nazila asserts that there is no equity in the Property because it is encumbered by lien in favor of Pedram Shamekh (“Shamekh,” and the lien in favor of Shamekh, the “Shamekh Lien”).

On March 12, 2020, the Trustee filed a complaint against Shamekh, seeking to avoid the Shamekh Lien (the “Shamekh Complaint”). Among other things, the Shamekh Complaint alleges that the Shamekh Lien is avoidable as a preferential transfer.

On April 16, 2020, the Court granted the Trustee’s motion to consolidate the litigation of the Shamekh Complaint and the Nazila Complaint. The Court found that consolidation served the interests of judicial economy since both actions concerned the same Property and involved common issues of fact regarding whether various transfers facilitated by the Debtor were done with fraudulent intent. Notwithstanding the consolidation, the Court stated that it would maintain separate dockets for both actions to avoid confusion.

Having reviewed the Joint Status Report filed in the Shamekh Complaint and the Unilateral Status Report filed in the Nazila Complaint, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In the Shamekh Complaint, Defendant has timely demanded a jury trial and has not filed a proof of claim against the estate. Because this is an avoidance action, Defendant is entitled to a jury trial. *See Langenkamp v. Culp*, 498 U.S. 42, 45 (1990) (“If a party does *not* submit a claim against the bankruptcy estate, however, the trustee can recover allegedly preferential transfers only by filing what amounts to a legal action to recover a monetary transfer. In those circumstances the preference defendant is entitled to a jury trial.”).
- 2) Shamekh has not consented to having the jury trial conducted by the Bankruptcy Court. Under Bankruptcy Rule 9015(b), the Bankruptcy Court may conduct a jury trial only with the consent of all parties. All proceedings through and including the Pretrial Conference will take place before the Bankruptcy Court. After the Pretrial Conference has been completed, these consolidated actions will be transferred to the District Court, which will conduct the jury trial. *See generally Sigma Micro Corp. v. Healthcentral.com (In re Healthcentral.com)*, 504 F.3d 775, 787–88 (9th Cir. 2007) (providing that where a right to a jury trial exists, the Bankruptcy Court retains jurisdiction to hear and determine all pretrial matters, and the action should be transferred to the District Court only once it has reached the trial stage).
- 3) Shamekh asserts that the Court should sanction the Trustee based upon actions

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**Bahram Zendedel**

**Chapter 7**

the Trustee has taken in a related action pending before the Los Angeles Superior Court (the “State Court Action”). A Status Report is not the proper mechanism for presenting a request for sanctions. The Court will entertain a request for sanctions only if all procedural requirements are fastidiously complied with. Further, while the Court understands the adversarial position of the parties, a motion for sanctions is seldom a productive means of advancing a party’s position in litigation.

- 4) Shamekh and the Trustee have both requested an extension of the litigation deadlines previously ordered. The prior litigation deadlines are extended as follows:
  - a) The last day to amend pleadings and/or join other parties is **10/15/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **1/26/2021**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **2/25/2021**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **3/16/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel’s responsibility to check the Judge’s self-calendaring dates, posted on the Court’s website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **3/23/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **3/27/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **4/13/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court’s Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**Bahram Zendedel**

**Chapter 7**

information about LOU.

- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
- i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
  - iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(i)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(i)(ii), and shall be filed by the deadline specified in ¶(i)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- 5) These consolidated actions shall be referred to the Mediation Panel. The Trustee, Shamekh, and Nazila shall meet and confer and select a Mediator from this District's Mediation Panel. The Trustee shall lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Bahram Zendedel**

**Chapter 7**

- 6) A continued Status Conference is set for **October 13, 2020, at 10:00 a.m.** A Joint Status Report, which shall discuss the status of mediation, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter the Scheduling Orders. Plaintiff shall submit the orders assigning these matters to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Given names are used to distinguish parties with the same surname. No disrespect is intended.

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Nazila Zendedel

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:20-01062 Mastan (TR) v. Shamekh

**#10.00** Status HearingRE: [1] Adversary case 2:20-ap-01062. Complaint by Peter J. Mastan (TR) against Pedram Shamekh. (Charge To Estate). Complaint for: (1) Avoidance, Recovery, and Preservation of Preferential Transfers [11 U.S.C. §§ 547, 550, and 551]; (2) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; and (3) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Mang, Tinho)

Docket 1

**Tentative Ruling:**

6/15/2020

See Cal. No. 10, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Pedram Shamekh

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#11.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

fr. 7-16-19; 10-15-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 6-4-20**

**Tentative Ruling:**

3/16/2020

Order entered. Status Conference **CONTINUED** to **June 16, 2020, at 10:00 a.m.**

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

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... John F Gallardo**

**Chapter 7**

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#12.00** Status Hearing

RE: [10] **Counterclaim** by Gregory Tardaguila against Ann Tardaguila as Trustee of the Tardaguila Living Trust dated 07-16-1999, Ann Tardaguila (Altholz, Andrew)

fr. 4-14-20

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On December 8, 2019, Ann Tardaguila, as Trustee of the Tardaguila Living Trust dated June 16, 1999 (the "Plaintiff/Counter-defendant"), filed this non-dischargeability action against Gregory Tardaguila (the "Defendant/Counter-claimant").

Plaintiff/Counter-defendant alleges that she loaned Defendant/Counter-claimant in excess of \$750,000; that Defendant/Counter-claimant failed to repay the indebtedness; and that Defendant/Counter-claimant committed actual fraud by diverting funds that could have been used to repay the indebtedness. The Complaint seeks a judgment that the indebtedness is non-dischargeable pursuant to § 523(a)(2)(A) and (a)(6), and seeks denial of Defendant/Counter-claimant's discharge pursuant to § 727(a)(2), (3), (4)(A), and (5).

Defendant/Counter-claimant filed a Counterclaim, in which he alleges that the note evidencing the indebtedness at issue in the Complaint (the "Note") is a sham that was created to change the character of the transaction from a gift to a loan. The Counterclaim alleges that the \$750,000 loaned to Defendant/Counter-claimant was an advance upon his inheritance. The Counterclaim further alleges that the Defendant/Counter-claimant did not sign the Note until several years after the funds were advanced and that Defendant/Counter-claimant was induced to sign the Note under false pretenses. The Counterclaim (1) objects to any claim against the estate on account of the Note asserted

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10:00 AM

**CONT...**

**Gregory Tardaguila**

**Chapter 7**

by Plaintiff/Counter-defendant; (2) seeks cancellation of the Note; and (3) seeks damages for fraud and negligent misrepresentations.

On January 16, 2020, the Court entered an order providing that the litigation deadlines set for the Counterclaim would also apply to the Complaint. Doc. No. 21.

On February 28, 2020, the Court entered an order (1) designating the first and second counterclaims as affirmative defenses to be litigated in connection with the Complaint, (2) finding that the third and fourth counterclaims for fraud and negligent misrepresentation (the "Fraud Counterclaims") accrued prepetition, were property of the bankruptcy estate, and could be prosecuted only by the Chapter 7 Trustee (the "Trustee"), (3) directing the Trustee to file a notice stating whether he intended to prosecute the Fraud Counterclaims by no later than March 13, 2020, and (4) dismissing the Fraud Counterclaims, but giving the Trustee leave to amend should he elect to prosecute the Fraud Counterclaims. Doc. No. 31. The Court subsequently extended the Trustee's deadline to determine whether to prosecute the Fraud Counterclaims to April 15, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In view of the extension of the Trustee's deadline to determine whether to prosecute the Fraud Counterclaims, a continued Status Conference shall be held on **June 16, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**United States Bankruptcy Court  
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Los Angeles  
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10:00 AM

**CONT... Gregory Tardaguila**

**Chapter 7**

**Defendant(s):**

Gregory Tardaguila

Represented By  
Andrew P Altholz

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
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**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#13.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01503. Complaint by Ann Tardaguila against Gregory Tardaguila. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Mitnick, Eric)

fr. 3-10-20; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

4/13/2020

See Cal. No. 18, above, incorporated in full by reference.

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

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se



**United States Bankruptcy Court  
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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01051 California Nurses Association v. VERITY HEALTH SYSTEM OF

**#14.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01051. Complaint by California Nurses Association against VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, De Paul Ventures, LLC, Richard Adcock, Steven Sharrer. (d),(e)),(14 (Recovery of money/property - other)),(21 (Validity, priority or extent of lien or other interest in property)),(81 (Subordination of claim or interest)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))(Skogstad, Kyrsten)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-18-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

VERITY HEALTH SYSTEM OF

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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10:00 AM

**CONT... Verity Health System of California, Inc. Chapter 11**

ST. VINCENT MEDICAL Pro Se

St. Vincent Dialysis Center, Inc. Pro Se

ST. FRANCIS MEDICAL Pro Se

Seton Medical Center, a California Pro Se

Verity Holdings, LLC, a California Pro Se

De Paul Ventures, LLC Pro Se

Richard Adcock Pro Se

Steven Sharrer Pro Se

St. Francis Medical Center of Pro Se

Does 1 through 500 Pro Se

**Plaintiff(s):**

California Nurses Association

Represented By  
Carol A Igoe  
Kyrsten Skogstad

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10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01377 Packaging Corporation of America v. Bonert et al

**#15.00** Status Conference re: Collection Actions re: Notice of Removal of Civil Action to United States Bankruptcy Court. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer))

FR. 3-10-20; 3-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 AM.**

**Tentative Ruling:**

3/10/2020

See Cal. No. 9.10, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By

**United States Bankruptcy Court  
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**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Packaging Corporation of America	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
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10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01378 Coastal Carriers, LLC v. Bonert et al

**#16.00 Status Hearing**

re: Collection Actions [1] Adversary case 2:19-ap-01378. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan)

FR. 3-10-20; 3-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONITNEUD 9-15-20 AT 10:00 AM..**

**Tentative Ruling:**

3/10/2020

See Cal. No. 9.10, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By

**United States Bankruptcy Court  
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**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Coastal Carriers, LLC	Represented By Scott E Blakeley
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**Tuesday, June 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#17.00** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01405. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).

FR. 3-10-20; 3-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 AM.**

**Tentative Ruling:**

3/10/2020

See Cal. No. 9.10, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By

**United States Bankruptcy Court  
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**CONT... Michael Bonert**

**Chapter 11**

Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

Beefam, LLC

Represented By

Lawrence M Jacobson

Vivien Bonert

Represented By

Alan W Forsley

Bonert's Inc., a California

Represented By

Lawrence M Jacobson

Bonert Management Company, Inc.

Represented By

Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By

Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By

Alan W Forsley

**Plaintiff(s):**

Capitol Distribution Company, LLC

Represented By

Sean Lowe

Scott E Blakeley



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**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

**#18.00**      Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01406. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).

FR. 3-10-20; 3-11-20

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

3/10/2020

Michael Bonert ("Michael") and Vivien Bonert ("Vivien," and together with Michael, the "Debtors") filed a voluntary Chapter 11 petition on September 12, 2019 (the "Petition Date"). Prior to the Petition Date, the Debtors operated a pie manufacturing company known as Bonert's Incorporated ("Bonerts"). In 2016, Bonerts ceased conducting business after its lender caused its assets to be sold through a federal receivership. Proceeds of the receivership sale were used to pay secured creditors, but were not sufficient to pay unsecured trade creditors, some of whom obtained unopposed judgments against Bonerts.

On August 13 and 14, 2019, Capitol Distribution Company, LLC ("Capitol"), Stratas Foods LLC ("Stratas"), Packaging Corporation of America, and Seneca Foods Corporation (collectively, the "Creditors") filed these four collection actions (the "Collection Actions") against the Debtors, Bonerts, and LLCs wholly owned by the Debtors that were affiliates of Bonerts (the "Affiliates"). The Collection Actions allege, *inter alia*, that the Debtors operated the Affiliates and Bonerts as a single enterprise for the purpose of defeating the rights of creditors; that the Debtors misappropriated assets of Bonerts and the Affiliates; and that the Debtors are liable for trade debt incurred by

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**CONT... Michael Bonert**

**Chapter 11**

Bonerts as its alter ego.

Having reviewed the Joint Status Reports submitted by the parties, the Court

**HEREBY FINDS AND ORDERS AS FOLLOWS:**

- 1) In the interests of judicial efficiency, the Court will consolidate the litigation of these four actions. The actions raise similar claims and the Debtors and the Affiliates have been named as Defendants in all of the actions. Notwithstanding such consolidation, the Court will maintain separate dockets for each adversary proceeding (as opposed to designating one of the proceedings as the lead case and requiring that all documents be filed in that proceeding).
- 2) Debtors/Defendants assert that it is not feasible to mediate the alter-ego and single enterprise liability issues raised in these actions with only the four Plaintiffs, while excluding from mediation 21 other creditors who also assert claims against the Debtors under alter-ego and single enterprise theories. The Debtors intend to object to the claims of all disputed creditors who have not filed adversary proceedings. The Court agrees with the Debtors that a global mediation involving all creditors asserting alter-ego claims would be more likely to result in settlement.
- 3) Debtors shall file objections to the claims of disputed creditors who have not filed adversary proceedings by no later than **March 18, 2020**. Unless otherwise ordered, the parties shall not be required to conduct the global mediation until these claim objections have been adjudicated.
- 4) The following litigation deadlines shall apply, subject to an extension for good cause shown:
  - a) A continued Status Conference to monitor the progress of mediation shall take place on **June 16, 2020, at 10:00 a.m.** A Status Report shall be filed by no later than fourteen days prior to the hearing.
  - b) Debtors have not responded to the Complaints in Adv. Nos. 2:19-ap-01377-ER and 2:19-ap-01378-ER. All non-Debtor Defendants have responded to the Complaints in these adversary proceedings. All parties have responded to the Complaints in Adv. Nos. 2:19-ap-01405-ER and 2:19-ap-01406-ER. Debtors shall respond to the Complaints in Adv. Nos. 2:19-ap-01377-ER and 2:19-ap-01378-ER by no later than **March 25, 2020**.
  - c) The last day to amend pleadings and/or join other parties is **7/16/2020**.
  - d) The last day to disclose expert witnesses and expert witness reports is **10/27/2020**.
  - e) The last day to disclose rebuttal expert witnesses and rebuttal expert witness

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**Michael Bonert**

**Chapter 11**

reports is **11/26/2020**.

- f) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **12/15/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- g) The last day for dispositive motions to be heard is **12/22/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- h) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **12/26/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- i) A Pretrial Conference is set for **1/12/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- j) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of

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CONT...

**Michael Bonert**

**Chapter 11**

- the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
  - k) Trial is set for the week of **1/25/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 5) Plaintiffs have submitted a number of comments and suggestions regarding the production of electronically stored information, procedures for dealing with claims of privilege, procedures pertaining to the conduct of depositions, procedures for the treatment of commercially sensitive information, and procedures for electronic service. The Court declines to enter an order adopting detailed procedures with respect to these issues at this time. It is possible that certain of the issues which Plaintiffs' proposed procedures seek to resolve will not arise in these proceedings. Counsel for all parties shall work cooperatively to resolve issues regarding the conduct of the litigation without Court intervention.

The Court will prepare and enter Scheduling Orders.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine

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**CONT... Michael Bonert**

**Chapter 11**

whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Represented By  
Lawrence M Jacobson

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By

**United States Bankruptcy Court  
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**CONT... Michael Bonert**

Alan W Forsley

**Chapter 11**

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
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11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01384 Mastan, Chapter 7 Trustee v. Discover Bank et al

**#100.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01384. Complaint by Peter J. Mastan, Chapter 7 Trustee against Discover Bank, Jason Young Cho. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Discover Bank

Pro Se

Jason Young Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

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**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



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11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01385 Mastan, Chapter 7 Trustee v. US Bank, N.A. et al

**#101.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01385. Complaint by Peter J. Mastan, Chapter 7 Trustee against US Bank, N.A., Kenny Hwang, Hee Jung Lee. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

US Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

Hee Jung Lee

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#102.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01386. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Jason Young Cho. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Pro Se

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01387 Mastan, Chapter 7 Trustee v. Bank of Hope et al

**#103.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01387. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of Hope, Jason Young Cho. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Youngduk Duk Cho

Pro Se

DOES 1-10 inclusive

Pro Se

Bank of Hope

Pro Se

Jason Young Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01388 Mastan, Chapter 7 Trustee v. Bank of America, N.A. et al

**#104.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01388. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of America, N.A.. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of America, N.A.

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01392 Mastan v. Flintridge Preparatory School, Inc. et al

**#105.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01392. Complaint by Peter Mastan against Flintridge Preparatory School, Inc., Hee Young Hwang, Young J. Hwang, Joyce J. Hwang, Nam Soo Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORER ENTERED 12-11-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Flintridge Preparatory School, Inc.	Pro Se
Joyce J. Hwang	Pro Se
Nam Soo Hwang	Pro Se
DOES 1 through 10	Pro Se
Hee Young Hwang	Pro Se
Young J. Hwang	Pro Se
Young Jae Hwang	Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Hee Youn Hwang

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01393 Mastan, Chapter 7 Trustee v. Hwang et al

**#106.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01393. Complaint by Peter J. Mastan, Chapter 7 Trustee against In Young Hwang, Twig & Twine, Inc., Danielle Steckler. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

DOES 1 through 10

Pro Se

In Young Hwang

Pro Se

Twig & Twine, Inc.

Pro Se

Danielle Steckler

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#107.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8-11-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01397 Mastan, Chapter 7 Trustee v. Kim et al

**#108.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01397. Complaint by Peter J. Mastan, Chapter 7 Trustee against Ji Young Kim, Does 1 - 10, inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-15-20 at 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Ji Young Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01398 Mastan, Chapter 7 Trustee v. Matthew Jeon, P.C. et al

**#109.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01398. Complaint by Peter J. Mastan, Chapter 7 Trustee against Matthew Jeon, P.C., Matthew Jeon, Hwae Sung. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: NOTICE OF DISMISSAL FILED 10-21-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

DOES 1-10

Pro Se

Matthew J Jeon

Pro Se

Matthew Jeon, P.C.

Pro Se

Hwae Sung

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01399 Mastan, Chapter 7 Trustee v. Hwang

**#110.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01399. Complaint by Peter J. Mastan, Chapter 7 Trustee against Hyun Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 2-28-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Hyun Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, June 16, 2020

Hearing Room 1568

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01400 Mastan, Chapter 7 Trustee v. Hwang et al

**#111.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01400. Complaint by Peter J. Mastan, Chapter 7 Trustee against Mirea Rea Hwang, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 12-4-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Mirea Rea Hwang

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01401 Mastan, Chapter 7 Trustee v. Four Season Travel, Inc. et al

**#112.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01401. Complaint by Peter J. Mastan, Chapter 7 Trustee against Four Season Travel, Inc., Heidi Kim, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Four Season Travel, Inc.

Pro Se

Heidi Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01402 Mastan, Chapter 7 Trustee v. Hwang et al

**#113.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01402. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Trigen Int'l, Inc., Beyond Textile, Inc., Does 1 - 10, inclusive. (Charge To Estate). COMPLAINT FOR: (1) AVOIDANCE OF ACTUAL FRAUDULENT TRANSFERS [11 U.S.C. 544(b), 548(a)(1)(A), And 550(a), And Cal. Civ. Code §§ 3439.04(a) And 3439.07]; (2) AVOIDANCE OF CONSTRUCTIVE FRAUDULENT TRANSFERS [11 U.S.C. §§ 544(b), 548(a)(1) (B), And 550(a), And Cal. Civ. Code §§ 3439.04(b) Or 3439.05 And Cal. Civ. Code § 3439.07] (3) CONSPIRACY TO DEFRAUD [11 U.S.C. § 105(a)] (4) FOR RECOVERY OF ILLEGAL DIVIDENDS [Cal. Corp. Code §§ 500, 501 And 506] (5) FOR BREACH OF FIDUCIARY DUTY; AND (6) RECOVERY OF AVOIDED TRANSFER [11 U.S.C. § 550(a)] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 11/19/19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Trigen Int'l, Inc.

Pro Se

Beyond Textile, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01403 Mastan, Chapter 7 Trustee v. K2 America, Inc. et al

**#114.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01403. Complaint by Peter J. Mastan, Chapter 7 Trustee against K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; and (5) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01368 Mastan, Chapter 7 Trustee v. XL Fabrics, Inc.

**#115.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01368. Complaint by Peter J. Mastan, Chapter 7 Trustee against XL Fabrics, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-28-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

XL Fabrics, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01369 Mastan, Chapter 7 Trustee v. S & H Design, Inc.

**#116.00** Pre-Trial Conference RE: [1] Adversary case 2:19-ap-01369. Complaint by Peter J. Mastan, Chapter 7 Trustee against S & H Design, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-27-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

S & H Design, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01371 Mastan, Chapter 7 Trustee v. Ropiablu, Inc.

**#117.00** Pretrial Conference

RE: [1] Adversary case 2:19-ap-01371. Complaint by Peter J. Mastan, Chapter 7 Trustee against Ropiablu, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-5-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Ropiablu, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01372 Mastan, Chapter 7 Trustee v. Romex Textiles, Inc.

**#118.00** Pretrial Conference  
RE: [1] Adversary case 2:19-ap-01372. Complaint by Peter J. Mastan, Chapter 7 Trustee against Romex Textiles, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 AM.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Romex Textiles, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01373 Mastan, Chapter 7 Trustee v. Regency Textiles of California, Inc.

**#119.00** Pretrial Conference  
RE: [1] Adversary case 2:19-ap-01373. Complaint by Peter J. Mastan, Chapter 7 Trustee against Regency Textiles of California, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-18-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Regency Textiles of California, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01374 Mastan, Chapter 7 Trustee v. Nobel Textile, Inc.

**#120.00** Pretrial Conference  
RE: [1] Adversary case 2:19-ap-01374. Complaint by Peter J. Mastan, Chapter 7 Trustee against Nobel Textile, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-5-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Nobel Textile, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01375 Mastan, Chapter 7 Trustee v. JM Story, Inc.

**#121.00** Pretrial Conference  
RE: [1] Adversary case 2:19-ap-01375. Complaint by Peter J. Mastan, Chapter 7 Trustee against JM Story, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 11-19-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JM Story, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01376 Mastan, Chapter 7 Trustee v. DCK America Enterprise, Inc.

**#122.00** Pretrial Conference  
RE: [1] Adversary case 2:19-ap-01376. Complaint by Peter J. Mastan, Chapter 7 Trustee against DCK America Enterprise, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-5-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

DCK America Enterprise, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01389 Mastan v. SYC Fabric, Inc.

**#123.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01389. Complaint by Peter Mastan against SYC Fabric, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

SYC Fabric, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01390 Mastan v. Traben USA, Inc.

**#124.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01390. Complaint by Peter Mastan against Traben USA, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Traben USA, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#125.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8-11-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01396 Mastan, Chapter 7 Trustee v. Flintridge Preparatory School, Inc. et al

**#126.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01396. Complaint by Peter J. Mastan, Chapter 7 Trustee against Flintridge Preparatory School, Inc., Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Flintridge Preparatory School, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Tbetty, Inc.**

Meghann A Triplett  
Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01404 Mastan, Chapter 7 Trustee v. Hwang et al

**#127.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01404. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Mirea Rea Hwang, Hyun Hwang, Tri Blossom, LLC, K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery from Subsequent Transferee [11 U.S.C. §§ 544, 548]; (5) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; (6) Conspiracy to Defraud [11 U.S.C. § 105(a)]; (7) For Recovery of Illegal Dividends [Cal. Corp. Code §§ 500, 501 and 506]; and (8) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 12-4-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Hyun Hwang

Pro Se

Tri Blossom, LLC

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

Mi Rae Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01255 Ehrenberg, Chapter 7 Trustee v. Hsu, an Individual

**#128.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01255. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against George Hsu, an Individual. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8/11/20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

George Hsu, an Individual

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-16493 Robert Arutyunyan**

**Chapter 7**

Adv#: 2:19-01380 Janamian v. Arutyunyan et al

**#129.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01380. Complaint by Soroush Janamian against Robert Arutyunyan , Klaris Nazaryan . false pretenses, false representation, actual fraud)) ,(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) ,(65 (Dischargeability - other)) (Collins, Kim S.)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-13-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Robert Arutyunyan

Represented By  
Asbet A Issakhanian

**Defendant(s):**

Robert Arutyunyan

Pro Se

Klaris Nazaryan

Pro Se

**Joint Debtor(s):**

Klaris Nazaryan

Represented By  
Asbet A Issakhanian

**Plaintiff(s):**

Soroush Janamian

Pro Se

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, June 16, 2020**

**Hearing Room 1568**

11:00 AM

**2:13-12806 Lenore Pride**

**Chapter 11**

Adv#: 2:19-01288 Pride v. JP MORGAN CHASE BANK et al

**#130.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01288. Complaint by Lenore Pride against JP MORGAN CHASE BANK, Quality Loan Service Corp.. (Fee Not Required). Nature of Suit: (91 (Declaratory judgment)) (Khang, Joon)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-4-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Lenore Pride

Represented By  
Joon M Khang

**Defendant(s):**

JP MORGAN CHASE BANK

Pro Se

Quality Loan Service Corp.

Pro Se

DOES 1-10, Inclusive

Pro Se

**Plaintiff(s):**

Lenore Pride

Represented By  
Joon M Khang

**United States Bankruptcy Court  
Central District of California  
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**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01110 Nguyen dba Sam Bullion & Coin v. Zendedel

**#1.00** Hearing re [26] Examination re Enforcement of Judgment of Judgment Debtor BAHRAM ZENDEDEL aka ROBERT ZENDEDEL

fr. 12-3-19; 2-19-20; 4-1-17

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 6-15-20**

**Tentative Ruling:**

- NONE LISTED -

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

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Sam Thuy Nguyen dba Sam Bullion

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

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10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01453 Mastan (TR) v. Zendedel

**#1.10 Status Hearing**

RE: [1] Adversary case 2:19-ap-01453. Complaint by Peter J. Mastan (TR) against Nazila Zendedel. (Charge To Estate). Complaint for: (1) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.07]; (2) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.05, 3439.07]; (3) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (4) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (5) Turnover of Property [11 U.S.C. § 362] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)),(91 (Declaratory judgment)) (Mang, Tinho)

fr. 1-14-20; 4-14-20; 6-16-20

Docket 1

**Tentative Ruling:**

6/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On January 18, 2019 (the "Petition Date"), Bahram Zendedel ("Debtor") filed a voluntary Chapter 7 petition. Debtor scheduled a community interest in real property located at 1712 Livonia Avenue, Los Angeles, CA 90035 (the "Property").

On May 16, 2018 (prior to the Petition Date), Debtor executed a quitclaim deed transferring the Property to Nazila Zendedel ("Nazila") [**Note 1**] as her sole and separate property.

On May 28, 2019, the Chapter 7 Trustee (the "Trustee") filed a complaint against



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**CONT... Bahram Zendedel**

**Chapter 7**

Nazila, seeking to avoid and recover the transfer of the Property (the “Nazila Complaint”). As an affirmative defense, Nazila asserts that there is no equity in the Property because it is encumbered by lien in favor of Pedram Shamekh (“Shamekh,” and the lien in favor of Shamekh, the “Shamekh Lien”).

On March 12, 2020, the Trustee filed a complaint against Shamekh, seeking to avoid the Shamekh Lien (the “Shamekh Complaint”). Among other things, the Shamekh Complaint alleges that the Shamekh Lien is avoidable as a preferential transfer.

On April 16, 2020, the Court granted the Trustee’s motion to consolidate the litigation of the Shamekh Complaint and the Nazila Complaint. The Court found that consolidation served the interests of judicial economy since both actions concerned the same Property and involved common issues of fact regarding whether various transfers facilitated by the Debtor were done with fraudulent intent. Notwithstanding the consolidation, the Court stated that it would maintain separate dockets for both actions to avoid confusion.

Having reviewed the Joint Status Report filed in the Shamekh Complaint and the Unilateral Status Report filed in the Nazila Complaint, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In the Shamekh Complaint, Defendant has timely demanded a jury trial and has not filed a proof of claim against the estate. Because this is an avoidance action, Defendant is entitled to a jury trial. *See Langenkamp v. Culp*, 498 U.S. 42, 45 (1990) (“If a party does *not* submit a claim against the bankruptcy estate, however, the trustee can recover allegedly preferential transfers only by filing what amounts to a legal action to recover a monetary transfer. In those circumstances the preference defendant is entitled to a jury trial.”).
- 2) Shamekh has not consented to having the jury trial conducted by the Bankruptcy Court. Under Bankruptcy Rule 9015(b), the Bankruptcy Court may conduct a jury trial only with the consent of all parties. All proceedings through and including the Pretrial Conference will take place before the Bankruptcy Court. After the Pretrial Conference has been completed, these consolidated actions will be transferred to the District Court, which will conduct the jury trial. *See generally Sigma Micro Corp. v. Healthcentral.com (In re Healthcentral.com)*, 504 F.3d 775, 787–88 (9th Cir. 2007) (providing that where a right to a jury trial exists, the Bankruptcy Court retains jurisdiction to hear and determine all pretrial matters, and the action should be transferred to the District Court only once it has reached the trial stage).
- 3) Shamekh asserts that the Court should sanction the Trustee based upon actions

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**Bahram Zendedel**

**Chapter 7**

the Trustee has taken in a related action pending before the Los Angeles Superior Court (the “State Court Action”). A Status Report is not the proper mechanism for presenting a request for sanctions. The Court will entertain a request for sanctions only if all procedural requirements are fastidiously complied with. Further, while the Court understands the adversarial position of the parties, a motion for sanctions is seldom a productive means of advancing a party’s position in litigation.

- 4) Shamekh and the Trustee have both requested an extension of the litigation deadlines previously ordered. The prior litigation deadlines are extended as follows:
  - a) The last day to amend pleadings and/or join other parties is **10/15/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **1/26/2021**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **2/25/2021**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **3/16/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel’s responsibility to check the Judge’s self-calendaring dates, posted on the Court’s website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **3/23/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **3/27/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **4/13/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court’s Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for

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**Bahram Zendedel**

**Chapter 7**

information about LOU.

- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
- i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
  - iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(i)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(i)(ii), and shall be filed by the deadline specified in ¶(i)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- 5) These consolidated actions shall be referred to the Mediation Panel. The Trustee, Shamekh, and Nazila shall meet and confer and select a Mediator from this District's Mediation Panel. The Trustee shall lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

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**CONT...**

**Bahram Zendedel**

**Chapter 7**

- 6) A continued Status Conference is set for **October 13, 2020, at 10:00 a.m.** A Joint Status Report, which shall discuss the status of mediation, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter the Scheduling Orders. Plaintiff shall submit the orders assigning these matters to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Given names are used to distinguish parties with the same surname. No disrespect is intended.

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Nazila Zendedel

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
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**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:20-01062 Mastan (TR) v. Shamekh

**#1.20 Status Hearing**

RE: [1] Adversary case 2:20-ap-01062. Complaint by Peter J. Mastan (TR) against Pedram Shamekh. (Charge To Estate). Complaint for: (1) Avoidance, Recovery, and Preservation of Preferential Transfers [11 U.S.C. §§ 547, 550, and 551]; (2) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; and (3) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Mang, Tinho)

FR. 6-16-20

Docket 1

**Tentative Ruling:**

6/15/2020

See Cal. No. 1.10, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Pedram Shamekh

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

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**CONT... Bahram Zendedel**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
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**Wednesday, June 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:14-25758 Wesley Brian Ferris**

**Chapter 11**

**#2.00 Post-Confirmation Status Conference re Confirmation of Debtor's Chapter 11 Plan**

fr. 7-6-16; 10-4-16; 11-9-16; 4-11-17; 7-11-17; 12-19-17; 5-16-18; 10-16-18;  
3-13-19; 7-17-19; 11-13-19; 2-19-20

Docket 109

**Tentative Ruling:**

6/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, a continued Post-Confirmation Status Conference shall take place on **October 14, 2020, at 10:00 a.m.**

A stipulation resolving the below-discussed issues concerning the Greystone property shall be entered by no later than **July 1, 2020**. The Debtor shall file and serve a motion for a final decree, as indicated below, such that the motion is heard prior to the date of the continued Status Conference. If favorable orders on both the motion for a final decree and the referenced stipulation are entered, the continued Status Conference will go off calendar.

**Pleadings Filed and Reviewed:**

- 1) Debtor's Ninth Post-Confirmation Status Report [Doc. No. 270] (the "Ninth Post-Confirmation Status Report")
- 2) Debtor's Eighth Post-Confirmation Status Report [Doc. No. 258] (the "Eighth Post-Confirmation Status Report")
- 3) As of the preparation of this tentative ruling, no response or objection is on file

**I. Facts and Summary of Pleadings**

Wesley Brian Ferris (the "Debtor") commenced a voluntary chapter 11 petition on

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**CONT...**

**Wesley Brian Ferris**

**Chapter 11**

August 15, 2014. On March 8, 2017, the Court entered an *Order Confirming Debtor's First Amended Chapter 11 Plan of Reorganization, Dated July 15, 2016 and Approving Stipulations for Plan Treatment of Secured Claims* [Doc. No. 190]. This is the Ninth Post-Confirmation Status Conference. The Debtor asserts that the confirmed plan is substantially consummated, and that he is either current on or has completed payments owed to unsecured creditors, the Class 3 claimant, and the administrative claimant formerly known as Danning, Gill, Diamond & Kollitz LLP. In addition, the new value fund has been fully funded. The issues that have prevented Debtor from seeking a final decree are summarized below [**Note 1**]:

- Class 3A consists of the secured claim of Bank of America, N.A., which is secured by real property located at 444 N. Myrtle Ave., Monrovia, CA (“Myrtle”). The Debtor informs that all prior deficiencies on the Myrtle loan have been cured and he is current on all payments.
- Class 2 consists of the claim of Bank of New York Mellon, which is secured by real property located at 443 East Greystone Ave., Monrovia, CA (“Greystone”). The Greystone loan is currently serviced by Shellpoint Mortgage Servicing (“Shellpoint”). The Debtor states that it has entered into an agreement with Shellpoint, resolving issues concerning the amount in default and the proposed payment schedule. The Debtor expects to enter a stipulation on the agreement prior to the instant hearing.
- Class 1A comprises the secured claim of Structured Asset Mortgage Investments II Inc., Bear Stearns ARM Trust, Mortgage Pass-Through Certificates, Series 2004-3, as serviced by Specialized Loan Servicing, Inc. (“Specialized”), which is secured by real property located at 515 North Alta Vista Ave., Monrovia, CA (“Alta Vista”). The Debtor claims that he continued to make payments on the Alta Vista loan consistent with an adequate protection agreement with Specialized. Eighth Post-Confirmation Status Report at 7-8. However, because the Debtor never received a monthly bill from Specialized, he is unaware of the outstanding balance on the loan. *Id.* Alta Vista is currently vacant, and having failed to locate a tenant, the Debtor plans to sell Alta Vista once real estate market conditions improve. In sum, the Debtor will resolve outstanding issues concerning Alta Vista outside of bankruptcy.

Finally, a significant portion of administrative claims payable to Debtor's general bankruptcy counsel—the Law Offices of Diane C. Weil (“LODCW”) and the Weil Law



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**CONT... Wesley Brian Ferris**

**Chapter 11**

Firm (“WLF”) collectively (“Applicant”)—are outstanding. In order to minimize expenses, and to expedite approval of a final decree, the Debtor will seek approval of a lump sum in satisfaction of outstanding professional fees as part of a motion for a final decree. Alternatively, if Applicants must prepare and file fee applications, administrative expenses will surpass such lump sum.

Accordingly, the Debtor requests a further status conference in the next 120 to 180 days. However, the Debtor intends to shortly file a motion for a final decree, and if approved, the continued status conference should be vacated.

As of the preparation of this tentative ruling, no response or objection is on file.

## **II. Findings and Conclusions**

Based upon the foregoing, it is unclear why the preparation of a fee application here should be such an expensive process. No reason is given by the Applicants, but it is likely that age of the case and the complexity of representation might make the preparation of a full fee application difficult and expensive - and inconsistent with the goal of achieving finality in this six year old case. The Court will allow payment if requested in the motion for final decree, as long as the underlying time records, to the extent available, are made open for inspection at the request of any party in interest until the case is closed.

A continued Post-Confirmation Status Conference shall be held **October 14, 2020, at 10:00 a.m.** A Post-Confirmation Status Report must be submitted by no later than fourteen days prior to the hearing. A stipulation resolving the above-referenced issue concerning the Greystone property shall be entered by no later than **July 1, 2020**. The Debtor shall file and serve a motion for a final decree, as discussed above, such that the motion is heard prior to the date of the continued Status Conference. If orders on both the motion for a final decree and the referenced stipulation are entered, the continued Status Conference will go off calendar.

The Debtor shall submit an order setting the continued Status Conference within seven days of the hearing.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at

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**CONT... Wesley Brian Ferris Chapter 11**

213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** A fuller description of Debtor's post-confirmation issues may be found in the Eighth Post-Confirmation Status Report, which is attached as Exhibit 1 of the Ninth Post-Confirmation Status Report.

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

Wesley Brian Ferris

Represented By  
Diane C Weil

**United States Bankruptcy Court  
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Wednesday, June 17, 2020

Hearing Room 1568

11:00 AM

2:19-19304 Robert Shabtaei

Chapter 7

#100.00 Trustee - David M. Goodrich

Hearing re [31] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

6/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$1,250 [*see* Doc. No. 30]

Total Expenses: \$110.50 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

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11:00 AM

**CONT... Robert Shabtaei**

**Chapter 7**

**Debtor(s):**

Robert Shabtaei

Represented By  
Sevan Gorginian

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01384 Mastan, Chapter 7 Trustee v. Discover Bank et al

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01384. Complaint by Peter J. Mastan, Chapter 7 Trustee against Discover Bank, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Discover Bank

Pro Se

Jason Young Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
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**Monday, June 22, 2020**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
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**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01385 Mastan, Chapter 7 Trustee v. US Bank, N.A. et al

**#2.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01385. Complaint by Peter J. Mastan, Chapter 7 Trustee against US Bank, N.A., Kenny Hwang, Hee Jung Lee. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

DOES 1-10 inclusive

Pro Se

US Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

Hee Jung Lee

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#3.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01386. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

HSBC Bank, N.A.

Pro Se

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1639**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01387 Mastan, Chapter 7 Trustee v. Bank of Hope et al

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01387. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of Hope, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-24-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of Hope

Pro Se

Jason Young Cho

Pro Se

Youngduk Duk Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1639**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01388 Mastan, Chapter 7 Trustee v. Bank of America, N.A. et al

**#5.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01388. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of America, N.A.. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of America, N.A.

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01392 Mastan v. Flintridge Preparatory School, Inc. et al

**#6.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01392. Complaint by Peter Mastan against Flintridge Preparatory School, Inc., Hee Young Hwang, Young J. Hwang, Joyce J. Hwang, Nam Soo Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORER ENTERED 12-11-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Flintridge Preparatory School, Inc.	Pro Se
Joyce J. Hwang	Pro Se
Nam Soo Hwang	Pro Se
DOES 1 through 10	Pro Se
Hee Young Hwang	Pro Se
Young J. Hwang	Pro Se
Young Jae Hwang	Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Hee Youn Hwang

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01393 Mastan, Chapter 7 Trustee v. Hwang et al

**#7.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01393. Complaint by Peter J. Mastan, Chapter 7 Trustee against In Young Hwang, Twig & Twine, Inc., Danielle Steckler. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

DOES 1 through 10

Pro Se

In Young Hwang

Pro Se

Twig & Twine, Inc.

Pro Se

Danielle Steckler

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1575 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1575**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#8.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8-24-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1575 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1575**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01397 Mastan, Chapter 7 Trustee v. Kim et al

**#9.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01397. Complaint by Peter J. Mastan, Chapter 7 Trustee against Ji Young Kim, Does 1 - 10, inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-28-20 at 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Ji Young Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01398 Mastan, Chapter 7 Trustee v. Matthew Jeon, P.C. et al

**#10.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01398. Complaint by Peter J. Mastan, Chapter 7 Trustee against Matthew Jeon, P.C., Matthew Jeon, Hwae Sung. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: NOTICE OF DISMISSAL FILED 10-21-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

DOES 1-10

Pro Se

Matthew J Jeon

Pro Se

Matthew Jeon, P.C.

Pro Se

Hwae Sung

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01399 Mastan, Chapter 7 Trustee v. Hwang

**#11.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01399. Complaint by Peter J. Mastan, Chapter 7 Trustee against Hyun Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 2-28-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Hyun Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01400 Mastan, Chapter 7 Trustee v. Hwang et al

**#12.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01400. Complaint by Peter J. Mastan, Chapter 7 Trustee against Mirea Rea Hwang, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 12-4-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Mirea Rea Hwang

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01401 Mastan, Chapter 7 Trustee v. Four Season Travel, Inc. et al

**#13.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01401. Complaint by Peter J. Mastan, Chapter 7 Trustee against Four Season Travel, Inc., Heidi Kim, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-28-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Four Season Travel, Inc.

Pro Se

Heidi Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01402 Mastan, Chapter 7 Trustee v. Hwang et al

**#14.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01402. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Trigen Int'l, Inc., Beyond Textile, Inc., Does 1 - 10, inclusive. (Charge To Estate). COMPLAINT FOR: (1) AVOIDANCE OF ACTUAL FRAUDULENT TRANSFERS [11 U.S.C. 544(b), 548(a)(1)(A), And 550(a), And Cal. Civ. Code §§ 3439.04(a) And 3439.07]; (2) AVOIDANCE OF CONSTRUCTIVE FRAUDULENT TRANSFERS [11 U.S.C. §§ 544(b), 548(a)(1)(B), And 550(a), And Cal. Civ. Code §§ 3439.04(b) Or 3439.05 And Cal. Civ. Code § 3439.07] (3) CONSPIRACY TO DEFRAUD [11 U.S.C. § 105(a)] (4) FOR RECOVERY OF ILLEGAL DIVIDENDS [Cal. Corp. Code §§ 500, 501 And 506] (5) FOR BREACH OF FIDUCIARY DUTY; AND (6) RECOVERY OF AVOIDED TRANSFER [11 U.S.C. § 550(a)] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 11/19/19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Trigen Int'l, Inc.

Pro Se

Beyond Textile, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

---

9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01403 Mastan, Chapter 7 Trustee v. K2 America, Inc. et al

**#15.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01403. Complaint by Peter J. Mastan, Chapter 7 Trustee against K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; and (5) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

---

9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01368 Mastan, Chapter 7 Trustee v. XL Fabrics, Inc.

**#16.00** Trial  
RE: [1] Adversary case 2:19-ap-01368. Complaint by Peter J. Mastan, Chapter 7 Trustee against XL Fabrics, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-28-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

XL Fabrics, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01369 Mastan, Chapter 7 Trustee v. S & H Design, Inc.

**#17.00** Trial  
RE: [1] Adversary case 2:19-ap-01369. Complaint by Peter J. Mastan, Chapter 7 Trustee against S & H Design, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-27-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

S & H Design, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01370 Mastan, Chapter 7 Trustee v. Royal Textile Print, Inc.

**#18.00** Trial  
RE: [1] Adversary case 2:19-ap-01370. Complaint by Peter J. Mastan, Chapter 7 Trustee against Royal Textile Print, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Royal Textile Print, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01371 Mastan, Chapter 7 Trustee v. Ropiablu, Inc.

**#19.00** Trial  
RE: [1] Adversary case 2:19-ap-01371. Complaint by Peter J. Mastan, Chapter 7 Trustee against Ropiablu, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-5-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Ropiablu, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01372 Mastan, Chapter 7 Trustee v. Romex Textiles, Inc.

**#20.00** Trial  
RE: [1] Adversary case 2:19-ap-01372. Complaint by Peter J. Mastan, Chapter 7 Trustee against Romex Textiles, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Romex Textiles, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01373 Mastan, Chapter 7 Trustee v. Regency Textiles of California, Inc.

**#21.00** Trial RE: [1] Adversary case 2:19-ap-01373. Complaint by Peter J. Mastan, Chapter 7 Trustee against Regency Textiles of California, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-18-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Regency Textiles of California, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01374 Mastan, Chapter 7 Trustee v. Nobel Textile, Inc.

**#22.00** Trial  
RE: [1] Adversary case 2:19-ap-01374. Complaint by Peter J. Mastan, Chapter 7 Trustee against Nobel Textile, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-5-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Nobel Textile, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01375 Mastan, Chapter 7 Trustee v. JM Story, Inc.

**#23.00** Trial  
RE: [1] Adversary case 2:19-ap-01375. Complaint by Peter J. Mastan, Chapter 7 Trustee against JM Story, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-29-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JM Story, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01376 Mastan, Chapter 7 Trustee v. DCK America Enterprise, Inc.

**#24.00** Trial  
RE: [1] Adversary case 2:19-ap-01376. Complaint by Peter J. Mastan, Chapter 7 Trustee against DCK America Enterprise, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-5-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

DCK America Enterprise, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01389 Mastan v. SYC Fabric, Inc.

**#25.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01389. Complaint by Peter Mastan against SYC Fabric, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

SYC Fabric, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01390 Mastan v. Traben USA, Inc.

**#26.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01390. Complaint by Peter Mastan against Traben USA, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Traben USA, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#27.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8-24-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01396 Mastan, Chapter 7 Trustee v. Flintridge Preparatory School, Inc. et al

**#28.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01396. Complaint by Peter J. Mastan, Chapter 7 Trustee against Flintridge Preparatory School, Inc., Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 7-14-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Flintridge Preparatory School, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**Tberty, Inc.**

Meghann A Triplett  
Noreen A Madoyan

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01404 Mastan, Chapter 7 Trustee v. Hwang et al

**#29.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01404. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Mirea Rea Hwang, Hyun Hwang, Tri Blossom, LLC, K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery from Subsequent Transferee [11 U.S.C. §§ 544, 548]; (5) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; (6) Conspiracy to Defraud [11 U.S.C. § 105(a)]; (7) For Recovery of Illegal Dividends [Cal. Corp. Code §§ 500, 501 and 506]; and (8) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 12-4-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Hyun Hwang

Pro Se

Tri Blossom, LLC

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

Mi Rae Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01255 Ehrenberg, Chapter 7 Trustee v. Hsu, an Individual

**#30.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01255. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against George Hsu, an Individual. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8/24/20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

George Hsu, an Individual

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-16493 Robert Arutyunyan**

**Chapter 7**

Adv#: 2:19-01380 Janamian v. Arutyunyan et al

**#31.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01380. Complaint by Soroush Janamian against Robert Arutyunyan , Klaris Nazaryan . false pretenses, false representation, actual fraud)) ,(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) ,(65 (Dischargeability - other)) (Collins, Kim S.)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-13-19**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Robert Arutyunyan

Represented By  
Asbet A Issakhanian

**Defendant(s):**

Klaris Nazaryan

Pro Se

Robert Arutyunyan

Pro Se

**Joint Debtor(s):**

Klaris Nazaryan

Represented By  
Asbet A Issakhanian

**Plaintiff(s):**

Soroush Janamian

Pro Se

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

9:00 AM

**2:13-12806 Lenore Pride**

**Chapter 11**

Adv#: 2:19-01288 Pride v. JP MORGAN CHASE BANK et al

**#32.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01288. Complaint by Lenore Pride against JP MORGAN CHASE BANK, Quality Loan Service Corp.. (Fee Not Required).  
Nature of Suit: (91 (Declaratory judgment)) (Khang, Joon)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-4-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lenore Pride

Represented By  
Joon M Khang

**Defendant(s):**

JP MORGAN CHASE BANK

Pro Se

Quality Loan Service Corp.

Pro Se

DOES 1-10, Inclusive

Pro Se

**Plaintiff(s):**

Lenore Pride

Represented By  
Joon M Khang

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13742 Belinda Faye Johnson**

**Chapter 7**

**#100.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 BMW 5 Series 535i Sedan 4D . (Johnson, Marjorie)

Docket 11

**Tentative Ruling:**

6/18/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 22, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Belinda Faye Johnson**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Belinda Faye Johnson

Represented By  
Nicholas W Gebelt

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-22399 Dorothy Victoria Long**

**Chapter 7**

Adv#: 2:19-01086 United States Trustee for the Central District of v. Long

**#1.00** Trial  
RE: [1] Adversary case 2:19-ap-01086. Complaint by United States Trustee (LA) against Dorothy Victoria Long. (Fee Not Required). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference)  
Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e)))  
(Morrison, Kelly)  
fr. 6-11-19; 2-24-2020; 3-23-2020

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-28-20 AT 9:00 A.M.

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

**Debtor(s):**

Dorothy Victoria Long Pro Se

**Defendant(s):**

Dorothy Victoria Long Pro Se

**Plaintiff(s):**

United States Trustee for the Central Represented By  
Kelly L Morrison

**Trustee(s):**

Brad D Krasnoff (TR) Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, June 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-13059 Norberto Pimentel**

**Chapter 7**

Adv#: 2:19-01146 Wesley H Avery, Chapter 7 Trustee v. Pimentel et al

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01146. Complaint by WESLEY Howard AVERY against Norberto Pimentel, Erica Pimentel. (Charge To Estate). Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Stevens, Adam)

fr. 3-12-20; 3-24-2020

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-29-20 AT 9:00 AM.**

**Party Information**

**Debtor(s):**

Norberto Pimentel

Represented By  
Marcus Gomez

**Defendant(s):**

Norberto Pimentel

Pro Se

Erica Pimentel

Pro Se

**Joint Debtor(s):**

Erica Pimentel

Represented By  
Marcus Gomez

**Plaintiff(s):**

Wesley H Avery, Chapter 7 Trustee

Represented By  
Georgeann H Nicol  
Adam Stevens

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Adam Stevens

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, June 25, 2020**

**Hearing Room 1568**

2:00 PM

**2:20-14552 Khurram Mohammed**

**Chapter 7**

**#1.00** HearingRE: [8] Emergency motion Chapter 7 Trustee's Emergency Motion for Order: (1) Compelling Debtor to Turnover Estate Property; and (2) Enforcing Automatic Stay to Enjoin Debtor's Sale Transfer, Assignment, or Other Disposition of Estate Property; Memorandum of Points and Authorities; Declarations of Elissa D. Miller and Bryan Goodwin in Support Thereof, with Proof of Service (Miller (TR), Elissa)

Docket 8

**Tentative Ruling:**

6/24/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Subject to any opposition which may be presented at the hearing, the Court is prepared to **GRANT** the Motion in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Chapter 7 Trustee's Emergency Motion for Order: (1) Compelling Debtor's Turnover of Estate Property; and (2) Enforcing Automatic Stay to Enjoin Debtor's Sale, Transfer, Assignment, or Other Disposition of Estate Property [Doc. No. 8] (the "Motion")
- 2) Order Setting Hearing on Chapter 7 Trustee's Emergency Turnover Motion [Doc. No. 9]
  - a) Declarations of Elissa D. Miller and Cheryl Caldwell Re Notice of Hearing Pursuant to Order Setting Hearing on Chapter 7 Trustee's Emergency Turnover Motion [Doc. No. 11]

**I. Facts and Summary of Pleadings**

Khurram Mohammed (the "Debtor") filed a *pro se* voluntary Chapter 7 petition on May 18, 2020 (the "Petition Date"). Elissa D. Miller has been appointed as the Chapter 7 Trustee (the "Trustee"). The initial § 341(a) meeting of creditors is set for June 29, 2020, at 8:00 a.m.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Thursday, June 25, 2020

Hearing Room 1568

2:00 PM

CONT... **Khurram Mohammed**

Chapter 7

The Trustee moves for an order (1) compelling the Debtor to turnover property of the estate consisting of professional lighting equipment (the "Equipment") and (2) enforcing the automatic stay by enjoining the Debtor's sale or disposition of the Equipment. The Trustee makes the following arguments and representations in support of the Motion:

Prior to the Petition Date, the Debtor purchased some of the Equipment from Bryan Godwin, the owner of Wooden Nickel Lighting. Godwin Decl. at ¶ 2. On June 10, 2020, the Debtor contacted Godwin and asked if he was interested in buying back the Equipment. *Id.* at ¶ 5. On that same date, Godwin checked his company's Facebook page and saw that the Debtor had posted advertisements for sale of the Equipment. *Id.* at ¶ 4. In the advertisements, the Debtor requested that prospective buyers contact him directly. *Id.* Each item of Equipment the Debtor is attempting to sell costs between \$3,000 and \$5,500. *Id.* at ¶ 3.

On June 12 and 22, 2020, the Trustee attempted to contact the Debtor by telephone. The Debtor did not answer the Trustee's calls and did not respond to the voice messages left by the Trustee. Miller Decl. at ¶ 8. The Trustee has been informed by Godwin's counsel that the Debtor may shortly leave the country and is attempting to sell the Equipment quickly. *Id.* at ¶ 7.

The Debtor failed to list the Equipment in his schedules.

## II. Findings and Conclusions

Section 542 provides: "[A]n 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 ..., 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 "property" referred to in § 542 is the "property of the estate," as defined in § 541. *Shapiro v. Henson*, 739 F.3d 1198, 1199 (9th Cir. 2014). Bankruptcy Rule 7001(1) provides that a proceeding to compel a debtor to deliver property to the Trustee may be brought by motion.

Property of the estate includes "all legal or equitable interests of the debtor in property as of the commencement of the case." The Equipment, which the Debtor acquired prior to the Petition Date, constitutes property of the estate. Pursuant to § 704, the Trustee is obligated to "collect and reduce to money the property of the estate" for the benefit of creditors. Under § 542, the Debtor is required to turnover the Equipment to the Trustee so that she may administer the Equipment consistent with § 704. The Debtor is **ORDERED** to turnover the Equipment to the Trustee by no later than **Friday, June 26, 2020, at 5:00 p.m.** To the extent the Debtor has already sold the Equipment in

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Thursday, June 25, 2020

Hearing Room 1568

2:00 PM

CONT...

**Khurram Mohammed**

Chapter 7

contravention of his obligations under the Bankruptcy Code, the Debtor is **ORDERED** to turnover the proceeds of the Equipment's sale by the same date and time.

The Trustee is also entitled to an order enjoining the Debtor from selling or otherwise disposing of the Equipment. Section 362(a)(3) stays "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." The Debtor's attempts to sell the Equipment constitute an "act ... to exercise control over property of the estate" in violation of § 362(a)(3). An injunction barring the Debtor from selling or otherwise disposing of the Equipment is necessary to enforce the automatic stay. To the extent that an unauthorized sale of the Equipment has already occurred, the Debtor is further enjoined from dissipating the sale proceeds.

### **III. Conclusion**

Based upon the foregoing, the Debtor is **ORDERED** to turnover the Equipment or the proceeds of the sale of the Equipment to the Trustee by no later than **Friday, June 26, 2020, at 5:00 p.m.** The Debtor is **ENJOINED** from (1) selling or otherwise disposing of the Equipment or (2) dissipating the proceeds of the sale of the Equipment.

The Trustee shall immediately submit an order incorporating this tentative ruling by reference.

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

**Debtor(s):**

Khurram Mohammed

Pro Se

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13744 Leslie Mark Tietsort**

**Chapter 7**

**#1.00** Hearing  
RE: [17] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7377 S Yale Avenue, Tulsa, OK 74136-7016 . (Kaufmann, Kelly)

Docket 17

**Tentative Ruling:**

6/26/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the debtor stated an intention to surrender the property to Movant. *See* Doc. No. 1 at 42 (page citations are to the pagination provided at the top of the document).

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 29, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Leslie Mark Tietsort**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

All relief granted herein shall be subject to the Emergency Rules of the California Rules of Court, effective April 6, 2020.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Leslie Mark Tietsort

Represented By  
Louis J Esbin

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, June 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing  
RE: [4821] Motion for Relief from Stay Under 11 U.S.C. Section 362 (with supporting declarations)(PERSONAL PROPERTY).

Docket 4821

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 6-18-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-23585 Angel Alvarez Alvarez and Maria D Coyt De Alvarez**

**Chapter 7**

**#1.00 APPLICANT: Trustee : Carolyn A. Dye**

Hearing re [23] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$1,331.20 [*see* Doc. No. 22]

Total Expenses: \$5.00 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Angel Alvarez Alvarez and Maria D Coyt De Alvarez**

**Chapter 7**

**Debtor(s):**

Angel Alvarez Alvarez

Represented By  
Kevin Tang

**Joint Debtor(s):**

Maria D Coyt De Alvarez

Represented By  
Kevin Tang

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13186 Lionel Ramirez, Jr**

**Chapter 7**

**#2.00** Hearing  
RE: [16] Motion to vacate dismissal

Docket 16

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 6-18-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Lionel Ramirez Jr

Represented By  
Bahram Madaen

**Trustee(s):**

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17353 Maria G Gallarza-Dominguez**

**Chapter 11**

**#3.00 Post confirmation status conference**

fr. 11-5-19; 2-12-19; 2-19-20

Docket 98

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than two days before the hearing. The cost for persons representing themselves has been waived through August 31, 2020.**

For the reasons set forth below, a continued Post-Confirmation Status Conference shall take place on **October 6, 2020 at 10:00 a.m.**

**Pleadings Filed and Reviewed:**

- 1) Debtors-In-Possession's Post Confirmation Report on Status of Reorganization [sic] [Doc. No. 121] (the "Second Post-Confirmation Status Report")

**I. Facts and Summary of Pleadings**

On November 14, 2019, the Court entered an *Order Confirming Debtor's Chapter 11 Plan of Reorganization* [Doc. No. 103]. This is the second Post-Confirmation Status Conference. The Debtor asserts that she is current on all payments required under the Plan and foresees that she will continue making payments without issue. The Debtor claims that the preparation and submission of a motion for final decree has been hindered by the COVID-19 pandemic, among other personal reasons. She anticipates filing a final decree motion within the next 90 days.

As of the posting of this tentative ruling, no response or objection to the Second Post-Confirmation Status Report is on file.

**II. Findings and Conclusions**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Maria G Gallarza-Dominguez**

**Chapter 11**

No appearances required. A continued Post-Confirmation Status Conference shall be held **October 6, 2020, at 10:00 a.m.** A Post-Confirmation Status Report must be submitted by no later than fourteen days prior to the hearing. The Debtor must file and serve a motion for a final decree such that the motion is heard prior to the date of the continued Status Conference. If a favorable order on the motion for a final decree is entered, the continued Status Conference will be vacated.

The Debtor shall submit an order setting the continued Status Conference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than two days before the hearing.

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

**Debtor(s):**

Maria G Gallarza-Dominguez

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13772 1636 Haslam 888 LLC**

**Chapter 7**

**#4.00 Show Cause Hearing  
RE:[14] Debtor To Appear And Show Cause Why This Case Should Not Be  
Dismissed Based Upon Debtor's Lack Of Representation By Counsel**

Docket 1

**\*\*\* VACATED \*\*\* REASON: CASE DISMISSED 6-18-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

1636 Haslam 888 LLC

Pro Se

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12839 Rosalina Lizardo Harris**

**Chapter 11**

**#5.00** HearingRE: [38] Motion for Attorneys' Fees under 42 U.S.C. § 1988

Docket 38

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Sanctions Motion and the Attorneys' Fees Motion are both **DENIED**.

**Pleadings Filed and Reviewed:**

- 1) Sanctions Motion:
  - a) Notice of Motion and Motion for Sanctions Pursuant to Fed. R. Bankr. P. 9011 and 11 U.S.C. § 105(a) [Doc. No. 40] (the "Sanctions Motion")
  - b) Opposition to Motion for Sanctions Pursuant to Fed. R. Bankr. P. 9011 and 11 U.S.C. § 105(a) [Doc. No. 50]
- 2) Attorneys' Fees Motion:
  - a) Creditor Crystal Holmes' Notice of Motion and Motion for Attorneys' Fees Under 42 U.S.C. § 1988 [Doc. No. 38] (the "Attorneys' Fees Motion")
    - i) Amended Declaration of Anthony R. Bisconti in Support of Creditor Crystal Holmes' Motion for Attorneys' Fees Under 42 U.S.C. § 1988 [Doc. No. 48]
  - b) Creditor Crystal Holmes' Notice that No Party Has Opposed Her Motion for Attorneys' Fees Under 42 U.S.C. § 1988 [Doc. No. 51]

**I. Facts and Summary of Pleadings**

On May 27, 2020, the Court dismissed a voluntary Chapter 11 petition filed by Rosalina Lizardo Harris ("Harris"). The Court found that Harris filed the petition in bad faith, solely to avoid posting a supersedeas bond during Harris' appeal of a judgment that Holmes holds against Harris (the "Judgment"). Holmes now moves for the imposition of sanctions against Harris and her counsel pursuant to Bankruptcy Rule 9011 and the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Rosalina Lizardo Harris**

**Chapter 11**

Court's inherent authority under 11 U.S.C. § 105 (the "Sanctions Motion"). In addition, Holmes seeks attorneys' fees and costs for her efforts to enforce the Judgment, pursuant to 42 U.S.C. § 1988 (the "Attorneys' Fees Motion"). Harris opposes the Sanctions Motion but has not filed an opposition to the Attorneys' Fees Motion.

**A. Holmes' Judgment Against Harris**

On May 3, 2018, Holmes filed a complaint against Harris and other parties in the District Court, asserting claims under 42 U.S.C. § 1983 (the "Complaint"). On July 11, 2019, after conducting a jury trial, the District Court entered judgment in favor of Holmes in the amount of \$2,265,952.00 (the "Judgment"). Doc. No. 14, Ex. 4. The jury found that Harris, who is a detective employed by the Los Angeles Sheriff's Department (the "LASD"), violated Holmes' Fourth Amendment right to be free from unreasonable arrest without probable cause, and awarded damages of \$765,952. *Id.* The jury further found that Harris acted with malice, oppression, or reckless disregard of Holmes' constitutional rights, and awarded punitive damages of \$1.5 million. *Id.*

On September 19, 2019, the District Court denied Harris' renewed motion for judgment as a matter of law. The District Court stated:

The Court concludes that there was ample evidence to support the jury's verdict. There was sufficient evidence supporting the jury's conclusion that [Harris] acted under color of law in procuring [Holmes'] arrest, and that [Harris] procured [Holmes'] wrongful arrest without probable cause.

Doc. No. 14, Ex. 5.

On October 4, 2019, the District Court denied Harris' motion for a new trial or, in the alternative, an altered or amended judgment. Doc. No. 14, Ex. 6. The District Court rejected Harris' contention that the award of actual damages was not supported by sufficient evidence. *Id.* The District Court also found that the award of \$1.5 million in punitive damages was justified:

Here, the jury found that [Harris] acted "with malice, oppression, or reckless disregard of [Holmes'] constitutional rights" in procuring her wrongful arrest, rather than negligently. The jury concluded that [Harris], a law enforcement officer, carried out the wrongful arrest of an innocent person under the authority of her position, in deliberate disregard of [Holmes'] right to be free of unlawful arrest. The Court concludes that this is reprehensible conduct.

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*Id.* (internal citations omitted).

On October 4, 2019, the District Court awarded Holmes attorneys' fees in the amount of \$760,397.50, and costs and expenses in the amount of \$2,709.29. *Id.*

On October 10, 2019, Harris appealed the Judgment to the Ninth Circuit. The Ninth Circuit took no action on the appeal prior to the filing of Harris' voluntary Chapter 11 petition.

**B. The Dismissal of Harris' Voluntary Chapter 11 Petition**

On March 13, 2020 (the "Petition Date"), Harris filed a voluntary Chapter 11 petition (the "Petition"). On May 27, 2020, the Court granted Holmes' motion to dismiss the Petition. Doc. No. 33 (the "Dismissal Order"). The Court found that Harris filed the Petition in bad faith, to avoid being required to post a supersedeas bond during the appeal of the Judgment. The Court found that there was no realistic possibility that Harris would be able to confirm a plan:

In the Ninth Circuit, individual Chapter 11 debtors are subject to the absolute priority rule. *Zachary v. California Bank & Tr.*, 811 F.3d 1191 (9th Cir. 2016). This means that to confirm a plan over Holmes' opposition, the plan must either (1) provide for payment of the Judgment in full or (2) not permit Harris to retain the Property. Harris' objective in seeking bankruptcy protection was to save the Property, which limits Harris to proposing a plan that would provide for payment of the Judgment in full.

Even a plan funded by all of Harris' assets other than the Property would fall far short of paying the Judgment in full. The Judgment exceeds \$3 million; the unencumbered assets of the Pension Plan and 401k Plan total approximately \$630,000. (This calculation assumes that Harris would be willing to devote even exempt assets to funding a plan.) Payment of the entirety of Harris' retirement assets toward the Judgment would leave \$2.37 million of the Judgment unsatisfied. Assuming a very favorable interest rate of 3%, a plan providing for the payment of the remaining \$2.37 million over 30 years would require monthly payments of \$9,992.02. According to Schedule J, Harris' monthly net income is only \$3,918.11—less than half the amount required to fund a plan.

Harris asserts that a plan could also be funded by potential malpractice and indemnity claims. But Harris has provided no meaningful evidence that any claims she does possess would generate funds sufficient to make a plan confirmable. Harris' description of the claims is cursory and leaves the Court with serious doubts as to whether the claims would even be viable.



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Final Ruling Granting Dismissal Motion [Doc. No. 30] (the "Dismissal Ruling") at 9–10.

At the hearing on Holmes' motion to dismiss the Petition, Harris' counsel argued that she could confirm a plan over Holmes' opposition by taking advantage of the new-value corollary to the absolute priority rule. Harris' counsel stated that Harris' new value contribution could be funded by exempt assets, including the exempt equity in the Property and her exempt retirement assets. Harris' counsel estimated that total exempt assets that could be committed to a new value contribution could exceed \$500,000. The Court was not persuaded by counsel's arguments:

Under the new value corollary to the absolute priority rule, a debtor may cram down a plan while simultaneously retaining non-exempt pre-petition assets, provided that the debtor contributes "new value" toward the plan. *See generally Bank of America v. 203 North LaSalle Street Partnership*, 526 U.S. 434 (1999) (describing the new value corollary). To qualify as "new value," the contribution must be "(1) new, (2) substantial, (3) in money or money's worth, (4) necessary for successful reorganization, and (5) reasonably equivalent to the value or interest received." *Liberty Nat'l Enterprises v. Ambanc La Mesa Ltd. P'ship (In re Ambanc La Mesa Ltd. P'ship)*, 115 F.3d 650, 654 (9th Cir. 1997).

If Harris did in fact propose a plan committing \$500,000 in exempt assets in order to retain a Property with approximately \$400,000 in equity, the Court cannot conclusively rule out the possibility that such a plan could be confirmed over Holmes' opposition. However, there is nothing in the record indicating that Harris would be willing to commit to the hypothetical plan postulated by her counsel. In her declaration in opposition to the Motion to Dismiss, Harris' testimony regarding a hypothetical plan was limited to the following: "I have had the basics of bankruptcy reorganization explained to me and believe there is a way to save my home for my family and reorganize in bankruptcy and pay my creditors including Holmes what they would get if I were to liquidate to pay them, and still save my house. It will not be easy I know." Harris Decl. [Doc. No. 25] at ¶¶ 25–26. This cursory testimony fails to show that Harris is willing to make the substantial sacrifice of committing approximately \$500,000 in non-exempt assets that would be required were Harris to have a realistic possibility of confirming a plan.

Further, the remaining evidence before the Court shows that Harris' intent in seeking bankruptcy protection was not to propose a plan funded by substantially

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all her non-exempt assets, but rather to circumvent the requirement to post a supersedeas bond. This case has been pending for more than two months, but Harris has yet to comply with certain basic obligations that are applicable to all Chapter 11 debtors. She has not filed Monthly Operating Reports for the months of March or April. Pursuant to Local Bankruptcy Rule ("LBR") 2015-2(a) and the *Guidelines and Requirements for Chapter 11 Debtors in Possession* published by the United States Trustee, the March Monthly Operating Report was due on April 15 and the April Monthly Operating Report was due on May 15. Harris has not filed an application to employ Jeffrey B. Smith as her general bankruptcy counsel. According to the *Disclosure of Compensation of Attorney for Debtor* [Doc. No. 1], Smith has been paid a retainer of \$26,717.00 and has agreed "to render legal services for all aspects of the bankruptcy case, including ... [p]reparation and filing of any ... plan which may be required ...." Under LBR 2014-1(b)(1)(E), "an application for the employment of counsel for a debtor in possession should be filed *as promptly as possible* after the commencement of the case" (emphasis added).

Dismissal Ruling at 10–11.

**C. Papers Filed in Connection with the Sanctions Motion**

*1. Summary of the Sanctions Motion*

Holmes seeks sanctions against Harris and her counsel in the amount of \$50,462.44. Holmes makes the following arguments and representations in support of the Sanctions Motion:

The filing of a petition is sanctionable under Bankruptcy Rule 9011 if (1) the petition was frivolous pursuant to applicable law or (2) the petition was filed for an improper purpose. *Marsch v. Marsch (In re Marsch)*, 36 F.3d 825, 829-831 (9th Cir. 1994).

The petition was frivolous because under well-established law, a debtor may not use the automatic stay as a substitute for obtaining a supersedeas bond. In granting the Dismissal Motion, the Court found that "Harris filed the petition in bad faith, in order to avoid the necessity of posting a supersedeas bond during the appeal of the judgment." Dismissal Ruling at 9.

The petition was also filed for an improper purpose—solely to delay, hinder, and harass Holmes. Harris had no ongoing business to reorganize, no meaningful unsecured

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creditors other than Holmes, and no means of proposing a legitimate reorganization plan. Prior to the Petition Date, Harris orchestrated a series of pre-petition transfers that depleted the value of the estate, including the following:

- 1) Refinancing her home and reducing the available equity by at least \$125,000;
- 2) Withdrawing \$45,000 from a retirement account;
- 3) Spending \$20,000 to purchase a new vehicle for her daughter;
- 4) Spending \$28,000 to purchase a brand-new truck for her husband; and
- 5) Transferring \$35,000 to her sister and mother.

These pre-petition transfers further establish that the filing of the petition was not motivated by a legitimate reorganizational purpose.

A meaningful sanction against Harris' counsel is appropriate because he has previously been sanctioned for engaging in improper conduct in an adversary proceeding before Judge Zurzolo, *Trainor v. Evans (In re Evans)*, Case No. 2:14-ap-01619-VZ, and according to the California State Bar's website, two disciplinary proceedings arising out of his conduct in bankruptcy cases are pending against him. Counsel's prior conduct shows that he will not be deterred from advising clients to file frivolous petitions unless sanctions are imposed against him.

In addition to sanctions under Bankruptcy Rule 9011, the Court should also impose sanctions pursuant to its inherent power under § 105. The filing of a chapter 11 case for the sole purpose of delaying litigation in another forum is appropriately sanctionable under 11 U.S.C. § 105(a), as "[t]he only way to deter filing and prosecuting bankruptcy cases in bad faith is to impose monetary sanctions against both the debtor and the debtor's counsel . . ." *In re Silberkraus*, 253 B.R. 890, 913 (Bankr. C.D. Cal. 2000) (sanctioning debtor and counsel for filing and prosecuting a chapter 11 case for 7 months to hinder and delay state court litigation).

2. Summary of Harris' Opposition to the Sanctions Motion

Harris makes the following arguments and representations in opposition to the Sanctions Motion:

Harris provided good-faith evidence and legal arguments in opposition to the Dismissal Motion. Although the Court ultimately sided with Holmes, the contrary evidence presented by Harris was sufficient to defeat the contention that the petition was frivolous or was filed for an improper purpose.

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First, Harris presented evidence showing that the petition was not filed solely to avoid posting a supersedeas bond. Harris testified that she filed the petition because her assets were insufficient to pay even half of the Judgment.

Second, Harris made a good faith argument that the petition was filed for a legitimate reorganizational purpose. Harris argued that a plan funded by her exempt assets could be confirmed under the new value corollary to the absolute priority rule. Although the Court was not convinced by Harris' argument, sanctions are not warranted because the argument was not frivolous.

Holmes argues that Harris' alleged pre-petition dissipation of assets establishes that the petition was filed for an improper purpose. That argument is not persuasive. The Court did not rely upon Harris' alleged pre-petition conduct in granting the Dismissal Motion. Further, the evidence argues against a finding of bad faith. The pre-petition transactions that Holmes argues are evidence of "secreted assets" were, in fact, virtually all drawn from the petition, schedules, and testimony at the § 341 meeting. These were not secret, non-disclosed transactions.

Harris' assertion that counsel should be sanctioned because California State Bar disciplinary proceedings are pending against him is irresponsible mud-slinging. Harris makes no attempt to show how the pending disciplinary proceedings are relevant to this action. Further, no decision has been made in the disciplinary proceedings and counsel remains a member of the California Bar in good standing.

3. Summary of Harris' Reply in Support of the Sanctions Motion

Harris makes the following arguments and representations in her reply in support of the Sanctions Motion:

Holmes' opposition is little more than an attempt to re-litigate the Court's earlier determination that Harris filed the petition in bad faith. That finding is now final and non-appealable, and supports the imposition of sanctions.

In support of her contention that she filed the petition for a legitimate reorganizational purpose, Harris points only to argument made by her counsel at the hearing. She does not identify any evidence supporting her ability to confirm a plan.

Harris argues that because the Court did not consider her bad-faith pre-petition conduct in granting the Dismissal Motion, such conduct is irrelevant to the issue of whether sanctions should be imposed. The fact that the Court did not consider that evidence in the context of the Dismissal Motion does not mean that the evidence is not relevant and admissible now.

It was entirely appropriate for Holmes to bring to the Court's attention prior

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disciplinary actions taken against Harris' counsel. While the Court should only consider counsel's conduct in this case when deciding whether sanctions should be imposed, it may consider counsel's prior conduct when deciding what sanction would be appropriate. *In re Brooks-Hamilton*, 329 B.R. 270, 283–85 (B.A.P. 9th Cir. 2005), *aff'd in relevant part*, 271 F.App'x 654, 661 (9th Cir. 2008).

**D. Papers Filed in Connection with the Attorneys' Fees Motion**

Holmes moves for attorneys' fees in the amount of \$47,027 and costs in the amount of \$3,435.44 for work performed obtaining the dismissal of the petition. No opposition to the Attorneys' Fees Motion is on file. Holmes makes the following arguments and representations in support of the Attorneys' Fees Motion:

The Judgment resulted from a lawsuit brought under 42 U.S.C. § 1983. The prevailing party in a § 1983 action is entitled to reasonable attorneys' fees under 42 U.S.C. § 1988. In *Pinshaw v. Monk*, 565 F.Supp. 44 (D. Mass. 1983), the court held that under 42 U.S.C. § 1988, the plaintiff was entitled to attorneys' fees for the costs of bringing a non-dischargeability action to protect a § 1983 judgment. Similarly, Holmes is entitled to attorneys' fees for the work performed obtaining dismissal of the petition, because this work was necessary to protect and enforce the Judgment.

**II. Findings of Fact and Conclusions of Law**

**A. The Sanctions Motion is Denied**

Bankruptcy Rule 9011(b) provides:

By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

- 1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- 2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- 3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

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- 4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

Bankruptcy Rule 9011(c) provides that the Court may "impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation." A motion for sanctions may not be presented to the court unless, within 21 days after service of the motion, the challenged paper is not withdrawn or appropriately corrected. Bankruptcy Rule 9011(c)(1)(A). The 21-day safe harbor does not apply "if the conduct alleged is the filing of a petition in violation of subdivision (b)." *Id.* [Note 1]

In assessing the propriety of sanctions, "frivolousness and improper purpose are not wholly independent considerations but 'will often overlap.'" *Marsch v. Marsch (In re Marsch)*, 36 F.3d 825, 830 (9th Cir. 1994). The Court "must consider both frivolousness and improper purpose on a sliding scale, where the more compelling the showing as to one element, the less decisive need be the showing as to the other." *Id.*

In interpreting Bankruptcy Rule 9011, it is appropriate for the Court to look to cases interpreting Civil Rule 11, which is virtually identical. *In re Start the Engines, Inc.*, 219 B.R. at 270. "The standard for determining the propriety of Rule 11 sanctions is one of objective reasonableness for determinations of frivolousness as well as of improper purpose. 'If, judged by an objective standard, a reasonable basis for the position exists in both law and in fact at the time the position is adopted, then sanctions should not be imposed.'" *Conn v. Borjorquez*, 967 F.2d 1418, 1421 (9th Cir. 1992) (internal citations omitted).

In *Marsch*, the debtor filed a Chapter 11 petition before the state court could enter a restitution judgment against her and in favor of her ex-husband. *Id.* at 825. The bankruptcy court found that the debtor filed the petition to prevent entry of the judgment and to avoid posting a supersedeas bond, even though the debtor had sufficient assets to pay the judgment or post the bond. *Id.* The Ninth Circuit upheld both the bankruptcy court's dismissal of the petition as a bad-faith filing and the imposition of \$27,452 in Rule 9011 sanctions. *Id.* at 830–31. In upholding the sanctions award, the *Marsch* court stated that although the petition could not "be characterized as wholly frivolous" it was "certainly of dubious legal merit." *Id.* at 830. In sustaining the finding that the petition was filed for an improper purpose, the court emphasized "that the petition was filed solely to delay collection of the judgment and avoid posting an appeal bond, even though debtor had the ability to satisfy the judgment with nonbusiness assets." *Id.* According to the court, the debtor's action "was a transparent attempt to use a Chapter 11 petition and

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the resulting stay as an inexpensive substitute for the bond required under state law." *Id.*

As was the case in *Marsch*, here the considerations of frivolousness and improper purpose overlap. With respect to improper purpose, the Court found that Harris filed the petition in bad faith, to avoid posting a supersedeas bond. The finding that the petition was filed in bad faith was based in part upon the finding that Harris lacked the ability to propose a confirmable plan. For purposes of Bankruptcy Rule 9011, the finding that Harris lacked the ability to propose a confirmable plan goes to the issue of whether the petition was frivolous.

The fact that the Court found that the petition was filed in bad faith and that Harris lacked the ability to confirm a plan does not compel a finding that for Bankruptcy Rule 9011 purposes, the petition was filed for an improper purpose and was frivolous. In granting the Dismissal Motion, the Court stated that it could not "conclusively rule out the possibility" that the plan contemplated by Harris could be confirmed. Dismissal Ruling at 10. The Court dismissed the case because Harris had not presented sufficient evidence that she was "willing to make the substantial sacrifice of committing approximately \$500,000 in non-exempt assets that would be required were Harris to have a realistic possibility of confirming a plan." *Id.* at 10.

Notwithstanding these findings, as of the filing of the petition, there was an objectively reasonable basis for Harris and her counsel to take the position that they had the ability to confirm a plan. Successfully confirming a plan requires a debtor to overcome numerous hurdles, and the obstacles to plan confirmation often cannot be easily predicted at the commencement of the case. Sanctioning a debtor and her counsel for filing a petition in a case where the Court later determined that a debtor lacked the ability to propose a confirmable plan would create a chilling effect discouraging parties from seeking bankruptcy protection.

"The key question in assessing frivolousness is whether a complaint states an arguable claim ...." *Conn v. Borjorquez*, 967 F.2d at 1421 (9th Cir. 1992). Applying this principle to the bankruptcy context, the question becomes whether there was an arguable basis for the debtor to take the position that she had the ability to confirm a plan as of the petition date. As noted, in granting the Dismissal Motion, the Court declined to conclusively rule out the possibility that Harris could confirm a plan. Thus, there was an arguable basis for Harris and her counsel to take the position that a confirmable plan was a possibility. The filing of the petition was not frivolous.

*Marsch* is not to the contrary. In *Marsch*, the debtor's conduct was particularly offensive because she sought bankruptcy protection even though she had the ability to obtain a supersedeas bond or pay the judgment. The court reprimanded the debtor for using Chapter 11 "as an inexpensive substitute" for the supersedeas bond that she could

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afford. *Marsch*, 36 F.3d at 830. Here, by contrast, Harris did not have assets sufficient to pay the Judgment or obtain a supersedeas bond. [Note 2] Harris' inability to afford a supersedeas bond renders her conduct significantly less egregious than that of the debtor in *Marsch*.

Having found that sanctions are not warranted under Bankruptcy Rule 9011, the Court likewise declines to impose sanctions under its inherent authority. Sanctions under the Court's inherent authority may be imposed "against a party who willfully disobeys a court order or acts in bad faith, 'which includes a broad range of willful improper conduct.'" *Miller v. Cardinale (In re DeVille)*, 280 B.R. 483, 495-96 (B.A.P. 9th Cir. 2002), *aff'd sub nom. In re DeVille*, 361 F.3d 539 (9th Cir. 2004). "To impose inherent power sanctions, a court must find that a party acted 'in bad faith, vexatiously, wantonly, or for oppressive reasons.'" *Id.* A finding of bad faith is warranted where a litigant "knowingly or recklessly raises a frivolous argument." *Primus Auto. Fin. Servs., Inc. v. Batarse*, 115 F.3d 644, 648-49 (9th Cir. 1997).

Having found that there was an objectively reasonable basis for Harris and her counsel to assert that they could confirm a plan, the Court cannot find the willful improper conduct necessary to impose sanctions under its inherent authority.

**B. The Attorneys' Fees Motion is Denied**

The Attorneys' Fees Motion is denied without prejudice because the Court lacks jurisdiction to award attorneys' fees under 42 U.S.C. § 1988 on account of the Judgment.

The Bankruptcy Court has jurisdiction over "all cases under title 11." 28 U.S.C. § 1334(a). "Generally, in the bankruptcy context, the word 'case' is a term of art which refers to 'that which is commenced by the filing of a petition; it is the 'whole ball of wax,' the chapter 7, 9, 11, 12 or 13 case.'" *Blevins Elec., Inc. v. First Am. Nat'l Bank (In re Blevins Elec., Inc.)*, 185 B.R. 250, 253 (Bankr. E.D. Tenn. 1995).

The Bankruptcy Court also has jurisdiction over "all civil proceedings arising under title 11, or arising in or related to cases under title 11." 28 U.S.C. §1334(b). The three types of jurisdiction conferred under 28 U.S.C. §1334(b) are known as "arising under," "arising in," and "related to" jurisdiction. "Arising under" jurisdiction exists if "the cause of action is created by title 11." *Menk v. Lapaglia (In re Menk)*, 241 B.R. 896, 909 (B.A.P. 9th Cir. 1999). "Arising in" jurisdiction applies to "those administrative proceedings that, while not based on any right created by title 11, nevertheless have no existence outside bankruptcy." *Id.* "Related to" jurisdiction exists if "the outcome of the proceeding could conceivably have any effect on the estate being administered in bankruptcy.... An action is related to bankruptcy if the action could alter the debtor's



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rights, liabilities, options, or freedom of action (either positively or negatively) and which in any way impacts upon the handling and administration of the bankruptcy estate." *Fietz v. Great Western Savings (In re Fietz)*, 852 F.2d 455, 457 (9th Cir. 1988) (internal citations omitted).

The Court does not have any of the three types of jurisdiction under 28 U.S.C. § 1334(b). The Court does not have "arising under" jurisdiction because the Judgment did not result from a cause of action created by title 11. The Court does not have "arising in" jurisdiction because the Judgment results from 42 U.S.C. § 1983, and therefore is not the result of an administrative proceeding that has no existence outside of bankruptcy. The Court does not have "related to" jurisdiction because the case has been dismissed. Therefore, awarding attorneys' fees for Holmes' efforts to enforce the Judgment could not have any effect on the estate.

The only remaining basis for jurisdiction is 28 U.S.C. § 1334(a), which provides the Court jurisdiction over "all cases under title 11." In its May 27, 2020 order dismissing the case, the Court retained "subject matter and personal jurisdiction over Debtor and her counsel of record, solely for the purposes of determining any motion of Ms. Holmes requesting sanctions or reimbursement of attorney's fees against the Debtor and/or her counsel." Dismissal Order at ¶ 3. Because the Judgment was a liability of Harris in her Chapter 11 case, it could be argued that the Court has jurisdiction to award attorneys' fees in connection with the Judgment under 28 U.S.C. § 1334(a).

In view of the dismissal of the case, the Court declines to find that it has jurisdiction under 28 U.S.C. § 1334(a). Had the case not been dismissed, the relief sought in the Attorneys' Fees Motion would be analogous to a motion to determine the amount of Holmes' claim against Harris, which would be a core proceeding under 28 U.S.C. § 157(b)(2)(B). In that context, the Court might have jurisdiction to apply nonbankruptcy law to award additional fees on account of the Judgment, since the award of such fees would be related to the administration of the estate. But now that the case has been dismissed, an award of additional fees on account of the Judgment can have no effect upon the case.

The Court sees no reason why Holmes cannot apply to the District Court, which issued the Judgment, for the attorneys' fees incurred enforcing the Judgment. In all of the cases cited by Holmes in support of the Attorneys' Fees Motion, fees were awarded by the court that issued the judgment, not the bankruptcy court. For example, in *Pinshaw v. Monk*, 565 F.Supp. 44 (D. Mass. 1983), after the plaintiff incurred fees opposing the dischargeability of a judgment in bankruptcy court, the plaintiff returned to the district court that had issued the judgment to obtain an award of the fees incurred before the bankruptcy court. As noted above, the only situation in which the Court might have

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jurisdiction to interpret nonbankruptcy law to award fees on account of a judgment which it did not issue is if it became necessary for the Court to fix Harris' total liability on account of the Judgment for plan confirmation purposes. That is not the case here.

**III. Conclusion**

Based upon the foregoing, the Sanctions Motion and the Attorneys' Fees Motion are both **DENIED**. Within seven days of the hearing, Holmes shall submit orders denying both motions which incorporate this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Although the 21-day safe harbor does not apply in this case, Holmes' counsel sent Harris' counsel a letter on April 28, 2020, advising that the Sanctions Motion would be filed unless Harris withdrew the petition within 21 days.

**Note 2**

Holmes argues that Harris' failure even to attempt to obtain a supersedeas bond prior to filing the petition shows bad faith that is sanctionable. The Court disagrees. Where the record indicates that Harris' assets were woefully inadequate to obtain a bond against a judgment in excess of \$2.9 million, Harris' failure to make an attempt to secure a bond—which would have proved futile—does not support the imposition of sanctions.

**Party Information**

**Debtor(s):**

Rosalina Lizardo Harris

Represented By  
Jeffrey B Smith

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**#6.00** HearingRE: [40] Motion for Sanctions Pursuant to FED. R. BANKR. P. 9011 AND 11  
U.S.C. § 105(A)

Docket 40

**Tentative Ruling:**

6/29/2020

See Cal. No. 5, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Rosalina Lizardo Harris

Represented By  
Jeffrey B Smith

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**2:20-15501 Chineseinvestors.com, Inc.**

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**#7.00** HearingRE: [3] Emergency motion of Debtor for an Order Authorizing the Debtor to Employ Professionals Used in the Ordinary Course of Business, with Proof of Service

Docket 3

**Tentative Ruling:**

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Subject to any opposition which may be presented at the hearing, the Court is prepared to **GRANT** the Debtor's motion to retain and compensate ordinary course professionals.

**Pleadings Filed and Reviewed:**

- 1) Emergency Motion of Debtor for an Order Authorizing the Debtor to Employ Professionals Used in the Ordinary Course of Business [Doc. No. 3] (the "Motion")
  - a) Declaration of Warren Wang in Support of First Day Motions [Doc. No. 9]
  - b) Declaration of James Andrew Hinds, Jr. in Support of the Debtor's Emergency Motion for an Order Authorizing the Debtor to Employ Professionals Used in the Ordinary Course of Business [Doc. No. 28]
- 2) Order Setting Hearing on First Day Motions [Doc. No. 21]
  - a) Notice of Hearing on Debtor's Emergency First Day Motions [Doc. No. 25]
  - b) Declaration of Rachel M. Sposato Re: Telephonic Notice of Hearing on Debtor's Emergency First Day Motions [Doc. No. 26]

**I. Facts and Summary of Pleadings**

ChineseInvestors.com, Inc. (the "Debtor") filed a voluntary Chapter 11 petition on June 19, 2020 (the "Petition Date"). The Debtor is a financial information web portal that offers news and information regarding financial markets in Chinese. The Debtor also provides investor relations services for companies requiring Mandarin language support, which includes translating client releases into English from Mandarin or vice versa, increasing awareness of clients and their stock, and helping clients move from the pink sheets to more established public securities exchanges.

Beginning in 2017, the Debtor began developing two additional business lines—a domestic and international industrial hemp and cannabidiol ("CBD") business, and an international foreign exchange and cryptocurrency trading platform. The Debtor devoted a significant portion of its cash flow to these new business lines, which did not prove as

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successful as had been projected. As a result, the Debtor lacked the ability to repay short-term unsecured notes that began maturing in late 2018 and early 2019, which led to the filing of the petition.

At the end of 2019, the Debtor began scaling down its labor force for its cryptocurrency and industrial hemp businesses. The industrial hemp business was spun out into an independent corporation, Hemp Logic, Inc. (“Hemp Logic”). The Debtor is the majority shareholder in Hemp Logic. The Debtor hopes that as Hemp Logic’s business matures, Hemp Logic will reimburse the Debtor for startup costs in the amount of approximately \$1.1 million.

**Summary of Motion for an Order Authorizing the Debtor to Retain and Compensate Professionals Used by the Debtor in the Ordinary Course of Business**

Debtor seeks approval of procedures allowing the Debtor to retain and pay professionals employed in the ordinary course of business (the “ordinary course professionals” or “OCPs”). *See* Doc. No. 3 (the “OCP Motion”). The proposed retention and compensation procedures are as follows:

- 1) Within forty-five days after service of an order granting the OCP Motion, each ordinary course professional shall file a declaration establishing that they are a disinterested party within the meaning of Bankruptcy Rule 2014(a) (the “Disinterestedness Declaration”). The Disinterestedness Declaration shall be served upon parties entitled to notice; such parties shall have fourteen days to object to the retention of the ordinary course professional. If no objection is timely filed, the employment of the ordinary course professional shall be deemed approved without further order of the Court.
- 2) While the case is pending, the fees of each ordinary course professional shall not exceed \$10,800 per month on average over a rolling three-month period (the “OCP Cap”). To the extent that fees exceed the OCP Cap, the ordinary course professional shall file a notice and invoice setting forth the services rendered and fees incurred (a “Notice of Excess Fees”). Interested parties shall have fourteen days to object to the Notice of Excess Fees. If no objection is timely filed, the excess fees shall be deemed approved, and the ordinary course professional may be paid 100% of its fees and expenses without the need to file a formal fee application.

**II. Findings and Conclusions**

Section 327(b) provides: "If the trustee is authorized to operate the business of the

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debtor under section 721, 1202, or 1108 of this title, and if the debtor has regularly employed attorneys, accountants, or other professional persons on salary, the trustee may retain or replace such professional persons if necessary in the operation of such business."

The Court finds that the Debtors' proposed retention procedures are consistent with § 327(b) and approves the procedures. The Court notes that procedures similar to those proposed here have been approved by a number of courts.

The OCPs that the Debtor seeks to employ fall within the ambit of § 327(b). The OCPs have been regularly employed by the Debtor prior to the petition. The services they perform—accounting, public relations, investor communications, advertising, and information technology services—are necessary regardless of whether a bankruptcy petition was filed. The fact that professionals are not paid a fixed salary does not disqualify the Debtor from retaining their services under § 327(b). The professionals were employed by the Debtor prepetition and received regular payments, which necessarily varied depending upon the amounts of services that the professionals provided.

Under the Debtor's procedures, the rights of all parties to object are preserved. The Court finds that the procedures are an effective means of reducing the administrative costs of the case. The professionals the Debtor seeks to employ do not regularly practice before the bankruptcy court and are not familiar with the Bankruptcy Code's required employment and compensation procedures. Were the professionals required to file fee applications, the Debtor would be required to spend significant time helping them to comply with the procedures—driving up administrative costs. If some OCPs were unwilling to assume the cost and burden of filing employment and fee applications and declined to continue working for the Debtor, the Debtor would incur additional costs retaining other professionals who are not already familiar with the Debtor's operations.

### **III. Conclusion**

Based upon the foregoing, and subject to any opposition which may be presented at the hearing, the Court is prepared to **GRANT** the Motion in its entirety. The Debtor shall submit an order, incorporating this tentative ruling by reference, within seven days of the hearing.

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

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

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**#8.00** HearingRE: [6] Emergency motion Notice of Emergency Motion and Emergency Motion for Entry of Interim and Final Orders Authorizing Entry of an Order Limiting Service of Notice, with Proof of Service

Docket 6

**Tentative Ruling:**

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Subject to any opposition which may be presented at the hearing, for the reasons set forth in more detail below, the Court is prepared to GRANT the Debtor's first day motions.

**Pleadings Filed and Reviewed:**

- 1) Notice of Emergency Motion and Emergency Motion for Entry of Interim and Final Orders Authorizing Entry of an Order Limiting Service of Notice [Doc. No. 6] (the "Notice Motion")
- 2) Declaration of Warren Wang in Support of First Day Motions [Doc. No. 9] (the "Wang Declaration")
- 3) Notice of Emergency Motion and Emergency Motion for Entry of Interim and Final Orders Authorizing Debtor to (a) Pay Prepetition Compensation and Reimbursable Employee Expenses, (b) Pay and Honor Medical and Other Benefits and (c) Continue Employee Benefit Programs [Doc. No. 13] (the "Prepetition Compensation Motion")
- 4) Declaration of Aron Lee in Support of the Prepetition Compensation Motion [Doc. No. 14] (the "Lee Declaration")
- 5) Supplemental Declaration of Aron Lee in Support of Motion for Entry of Interim and Final Orders Authorizing Debtor to (A) Pay Prepetition Compensation And Reimbursable Employee Expenses, (B) Pay and Honor Medical and Other Benefits And (C) Continue Employee Benefit Programs [Doc. No. 33]
- 6) Declaration of Service [Doc. No. 27]
- 7) Declaration of Rachel M. Sposato Re: Telephonic Notice of Hearing on Debtor's Emergency First Day Motions [Doc. No. 26]
- 8) Order Setting Hearings on First Day Motions [Doc. No. 21]

**I. Facts and Summary of Pleadings**

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ChineseInvestors.com, Inc. (the "Debtor") filed a voluntary Chapter 11 petition on June 18, 2020 (the "Petition Date"). The Debtor was initially established as an online portal, which delivers "news and information" concerning investment markets and other finance-related topics to Chinese-speaking subscribers. A summary of the Debtor's business activities and factors precipitating bankruptcy is set forth in the tentative ruling on the Debtor's motion to employ ordinary course professionals and will not be repeated here.

**A. Motion to Limit Scope of Notice (the "Notice Motion")**

The Debtor seeks to limit the scope of notices respecting certain interested parties and makes the following arguments and representations in support:

The Debtor's creditor matrix exceeds 87 pages in length and it includes 697 bond, note, and equity holders. The Debtor believes that the cost to provide mail service to these interested parties is disproportionate, relative to the limited resources available to the Debtor. Therefore, to minimize financial expense and administrative delay, the Debtor proposes the following limited notice procedures:

1. Except as specified below, service of all pleadings, papers, or requests for relief (each, a "Limited Notice Matter") will be limited to (a) any party with a pecuniary interest that is affected by the particular Limited Notice Matter, (b) individuals appearing in the Master Service List [**Note 1**], and (c) all parties who file requests for special notice in the Debtor's case under Fed. R. Bankr. P. 2002 (the "Rule 2002 List") [**Note 2**] (collectively, the "Limited Service List").
2. Service of Limited Notice Matters will be accomplished by serving those on the Limited Service List via any of the following methods: Notice of Electronic Filing via the Court's Case Management/Electronic Case Filing System ("CM/CF"), first class mail, overnight delivery, facsimile, or e-mail.
3. However, notice of Limited Notice Matters, brought on an expedited or emergency basis, may be accomplished by overnight service.
4. Any creditor appearing in the list provided pursuant to Fed. R. Bankr. P. 1007(d), who is required, but fails to file a proof of claim, shall not be entitled to further notice "with respect to such claim or otherwise" (each, an "Excluded Creditor"). Notice Motion at 13.
5. Nothing in the Notice Motion shall preclude any interested party from further limiting or expanding notice of contested or adversary proceeding matters, upon a showing of good cause.



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Notwithstanding the foregoing, all creditors (Excluded Creditors excepted) are entitled to receive notice of the following matters or proceedings:

1. the meeting of creditors;
2. the deadline fixed to file a proof of claim;
3. the hearing on any motion to convert or the dismiss this case;
4. the time fixed for filing an objection to a disclosure statement and any hearing to consider approval of any disclosure statement;
5. the time fixed for filing an objection to, and the hearing to consider approval of, a chapter 11 plan;
6. the time fixed for filing an objection to, and the hearing to consider approval of, a modification of a chapter 11 plan (each, a "Complete Notice Matter").

In sum, the Court should adopt the proposed notice procedures pursuant to Fed. R. Bankr. P. 2002(m) and 9007. The proposed procedures will enable Debtor to minimize administrative costs and efficiently conduct proceedings by electronically serving those on the Limited Service List through CM/ECF. Additionally, any other interested party may request electronic service pursuant to Fed. R. Bankr. P. 2002 [Note 3]. In addition to the foregoing, the Debtor advises that it intends to establish an online portal, for the purpose of publishing important pleadings and communicating with creditors, equity holders, and members of the public. A copy of the proposed notice procedures will be available on said online portal.

**B. Motion to Pay Prepetition Compensation, Expenses, and Other Benefits, and Continue Employee Benefit Programs (the "Compensation Motion")**

The Debtor moves for authorization to pay and honor (1) prepetition employee compensation, (2) certain employee health benefits, as well as (3) maintain other employee compensation and benefit policies. In support of the Compensation Motion, the Debtor attaches the declaration of Aron Lee, its HR director, and makes the arguments and representations set forth below.

The Debtor currently employs 37 full-time employees and 3 part-time employees, for whose semi-monthly aggregate payroll averages \$76,000 [Note 4]. The Debtor's employees (the "Employees") are customarily paid on the 20th day of the subject month and on the 5th day of the month following the subject month. As of the Petition Date, the Debtor has not tendered all wages, salaries, and reimbursable business expenses due and owing to the Employees. Debtor does not believe that it owes any Employee an amount surpassing the \$13,650 cap provided under § 507(a)(4). The Debtor provides health and

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dental benefits to eligible employees, for which the Debtor pays a certain amount of the premium and the remainder is collected through payroll deductions (the "Benefit Plans"). As of the Petition Date, no insurance premiums are due and owing. Additionally, the Debtor routinely withholds specific amounts from its Employees' wages each pay period, which it remits to various third parties. Examples of said withholdings include obligations for payroll taxes, wage garnishments, child support payments, and the above-referenced benefit deductions. Benefit programs available to the Employees also include compensation under a non-insider bonus program, pursuant to the meaning of "non-insider" under § 101(31).

To prevent financial hardships on the Employees, and to ensure the continuity of Debtor's business operations, the Debtor requests permission to undertake the following measures:

1. Pay and/or honor prepetition claims arising from Employees' compensation, unreimbursed business expenses, and Benefit Plans (together, the "Employee Wages and Benefits");
2. Pay all administrative costs associated with the Employee Wages and Benefits;
3. Continue to pay and provide the Employee Wages and Benefits post-petition;
4. Withhold Employees' wages as applicable and remit such amounts to the appropriate third parties; and
5. Take adequate steps to carry out the above-described measures, such as directing third parties to pay and/or honor pre- and post-petition checks to be issued, fund transfers requested or to be requested that were not initially honored, or issue new fund transfers to satisfy prepetition Employee Wages and Benefits.

Pursuant to §§ 105(a) and 363(b), the Debtor requests that the Court authorize payment for all prepetition claims arising from the Employee Wages and Benefits. According to its records, the Debtor believes that any such prepetition amounts will be entitled to priority as those sums do not surpass the dollar limits set by §§ 507(a)(4) and (a)(5). Therefore, the payment of such prepetition amounts will not prejudice unsecured creditors. The "necessity of payment" doctrine further supports the payment of prepetition obligations that are necessary to the continued operation of debtors. *See, e.g., In re Structurlite Plastics Corp.*, 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988). Second, the payment of benefit deductions and taxes to third parties is appropriate, to the extent that a portion of those payments do not belong to the estate under § 541(b). Moreover, the Debtor must make any payments to avoid state or federal liability, such as payroll taxes. *See City of Farrell v. Sharon Steel Corp. (In re Sharon Steel Corp.)*, 41 F.3d 92,

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94-96 (3rd Cir. 1994) (state law imposing payment of city income taxes on debtor created trust relationship between debtor and city over withheld funds). Last, given that the requested relief is necessary to avoid immediate and irreparable harm, the relief requested in the Compensation Motion satisfies Fed. R. Bankr. P. 6003.

## **II. Findings and Conclusions**

### ***A. The Notice Motion is Granted, subject to the Modifications Stated Below***

Fed R. Bankr. P. 2002 authorizes the Court to limit the scope of notices that debtors are required to provide. Fed. R. Bankr. P. 2002(i) states in relevant part:

Copies of all notices required to be mailed pursuant to this rule shall be mailed to the committees elected under § 705 or appointed under § 1102 of the Code or to their authorized agents.

Notwithstanding the foregoing subdivisions, the court may order that notices required by subdivision (a)(2), (3) and (6) of this rule be transmitted to the United States trustee and be mailed only to the committees elected under § 705 or appointed under § 1102 of the Code or to their authorized agents and to the creditors and equity security holders who serve on the trustee or debtor in possession and file a request that all notices be mailed to them. A committee appointed under § 1114 shall receive copies of all notices required by subdivisions (a)(1), (a)(5), (b), (f)(2), and (f)(7), and such other notices as the court may direct.

Additionally, Fed. R. Bankr. P. 9007 provides:

When notice is to be given under these rules, the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given. When feasible, the court may order any notices under these rules to be combined.

Here, the Debtor's creditor matrix spans for 87 pages, which includes at least 697 bond, note, and equity holders. The Debtor estimates that the total number of interested parties is in the hundreds. Requiring the Debtor to provide notice of every matter to all interested parties would be unduly burdensome and disproportionately taxing relative to the size of this case. Therefore, the Court finds that the proposed procedures limiting notice are appropriate under the circumstances, subject to the following modifications:

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The Debtor shall send adequate notice to all known interested parties (regardless of inclusion in the Limited Service List, and including the Excluded Entities), and their respective counsel, of the following matters or proceedings:

1. The entry of an order granting the Notice Motion;
2. The date fixed to file a proof of claim;
3. The filing of any chapter 11 plan and the hearing date fixed to consider approval thereof;
4. The entry of an order confirming a chapter 11 plan; and
5. Any hearing regarding the dismissal or conversion of this case.

Furthermore, the Court provides clarity to the following limited notice procedures. First, it is unclear whether the Notice Motion attempts to limit notice of emergency and expedited motions to service via overnight delivery. *See* Notice Motion at 15. To clarify, in addition to overnight service, notice of expedited or emergency Limited Notice and Complete Notice Matters may be accomplished pursuant to any of the service methods authorized under Local Bankruptcy Rule ("LBR") 9075-1. Second, the Debtor must include, from the outset, all secured lenders and lenders providing debtor-in-possession financing in the Limited Service List. [Note 5].

*B. The Compensation Motion is Granted*

Section 363(b) permits debtors-in-possession to use estate property out of the ordinary course of business, subject to Court approval. The debtor must articulate a business justification for the use of the property. *In re Walter*, 83 B.R. 14, 19–20 (9th Cir. BAP 1988) (citing *In re Continental Air Lines*, 780 F.2d 1223 (5th Cir. 1986)). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.*

Section 507(a)(4) designates "wages, salaries, or commissions, including vacation, severance, and sick leave pay" that are earned by an individual "within 180 days before the date of the filing of the petition" as a fourth-priority claim. Additionally, § 507(a)(4) imposes a limit of \$13,650 for each individual employee for priority status. LBR 2081-1(a) provides that a motion to pay prepetition payroll must be supported by evidence that establishes the following: "(A) The employees are still employed; (B) The necessity for payment; (C) The benefit of the procedures; (D) The prospect of reorganization; (E) Whether the employees are insiders; (F) Whether the employees' claims are within the limits established by 11 U.S.C. § 507; and that (G) The payment

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will not render the estate administratively insolvent."

The Debtor has proffered ample business justification in moving to pay and/or honor the Employees' prepetition wages, unreimbursed business expenses, and Benefit Plans. Use of estate property is necessary for the Debtor to pay the Employees, who are instrumental in maintaining Debtor's business operations. If the Debtor is unable to reliably make payroll, it is likely that employees will leave, impairing the likelihood of the Debtor's reorganization. Moreover, the Debtor has submitted adequate and sufficient evidence satisfying the requirements under LBR 2081-1(a). Accordingly, the Lee Declaration describes benefit procedures, and it affirms the Debtor's intention to pay and honor the Employees' wages. *See* Lee Decl., ¶¶ 4-12. The Lee Declaration also asserts that the Employees are not insiders, and that the payments and benefits contemplated do not exceed the limits established by § 507. *See id.* at ¶¶ 4, 11. As of the Petition Date, the Debtor has 20 full-time employees in its Shanghai office, and 21 full-time and 3 part-time employees in its United States offices. Wang Decl., ¶ 62. For that reason, the Debtor is authorized to make payments on the Employees' prepetition wages and unreimbursed business expenses, as well as continue to honor such payments on an ongoing basis.

Similarly, the Debtor's continued operations, and its goal of a successful reorganization, depend on ensuring the funding of the Benefit Plans. In turn, the funding of the Benefit Plans requires the Debtor to withhold and remit portions of the Employees' wages to numerous third parties. Otherwise, failure to preserve the Benefit Plans could cause hardship to the Employees. *See* Lee Decl., ¶ 13 ("Each of these Health Benefit plans is important to the maintenance of Employee welfare and morale and is therefore critical to the uninterrupted operation of the Debtor's business.").

Based upon the foregoing the Court is prepared to grant the Compensation Motion. The Debtor is authorized to honor the Employee Wages and Benefits and remit payments as needed, as described in the Compensation Motion. The Debtor is further authorized to withhold the Employees' wages as necessary to fund the Benefit Plans, or as otherwise required by local, state, and federal law.

### **III. Conclusion**

For the reasons set forth above, the Court is prepared to GRANT the Debtor's first day motions, subject to any opposition to be presented at the hearing. The Court finds the proposed orders submitted in connection with the motions to be appropriate. Notwithstanding Fed. R. Bankr. P. 6004(h), the orders on the above-discussed motions

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shall take effect immediately. A stay would irreparably harm the Debtor, its Employees, and the likelihood that it will successfully achieve a chapter 11 reorganization.

**Note 1:** The Master Service List includes the contact information of the Debtor; its general bankruptcy counsel; the Office of the United States Trustee; the unsecured creditors holding the 20 largest claims, or if a committee of unsecured creditors is formed, or to the committee or to any counsel employed by the committee; counsel for the administrative agent of the prepetition secured lenders, among others. *See* Notice Motion at 11.

**Note 2:** Any interested party, who is not otherwise entitled to notice of a Limited Notice Matter, may be included in the Rule 2002 List by following the procedure described in pages 11 and 12 of the Notice Motion.

**Note 3:** The Debtor proposes that parties entitled to service of Limited Notice Matters, who lack access to e-mail, may request service of paper copies. *See* Notice Motion at 9.

**Note 4:** The Court notes that according to the Wang Declaration, the Debtor currently employs a total of 44 individuals, not 40, as stated in the Compensation Motion. Wang Decl., ¶ 62.

**Note 5:** The Notice Motion states that the Master Service List only includes "counsel to the administrative agent for Debtor's pre-petition secured lenders." *See* Notice Motion at 11.

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

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

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**#9.00** HearingRE: [13] Emergency motion Notice of Emergency Motion and Emergency Motion for Entry of Interim and Final Orders Authorizing Debtor to (A) Pay Prepetition Compensation and Reimbursable Employee Expenses, (B) Pay and Honor Medical and Other Benefits and (C) Continue Employee Benefit Programs, with Proof of Service

Docket 13

**Tentative Ruling:**

6/29/2020

See Cal. No. 8, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

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**2:16-24324 Kelley Anne West**

**Chapter 7**

**#100.00 APPLICANT:** Trustee : Carolyn A. Dye

Hearing re [103] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$8,250 approved, but payment shall be limited to \$7,850 based on Trustee's request [*see* Doc. No. 102]

Total Expenses: \$139.41 [*see id.*]

Other administrative fees previously awarded: \$46,198.09 [*see id.*] [**Note 1**]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Trustee shall submit a conforming order within seven days of the hearing.



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**Chapter 7**

**Note 1:** The Court previously awarded Trustee's counsel fees in the sum of \$42,085.00 and expenses in the sum of \$4,113.09. *See* Doc. No. 80.

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

**Debtor(s):**

Kelley Anne West

Represented By  
Henry Glowa

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
James A Dumas Jr  
Christian T Kim

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**2:16-24324 Kelley Anne West**

**Chapter 7**

**#101.00 APPLICANT:** Attorney for Trustee: Dumas & Kim, APC

Hearing re [103] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/29/2020

See Cal. No. 100, incorporated in full by reference.

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

Kelley Anne West

Represented By  
Henry Glowa

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
James A Dumas Jr  
Christian T Kim

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2:16-24324 Kelley Anne West

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#102.00 APPLICANT: Accountant for Trustee: LEA Accountancy, LLP

Hearing re [103] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

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**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

**Fees:** \$4,137.50 approved [*see* Doc. No. 103]

**Expenses:** \$122.71 approved [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Kelley Anne West

Represented By

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Henry Glowa

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
James A Dumas Jr  
Christian T Kim

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**2:17-10900 Blue Global, LLC**

**Chapter 7**

**#103.00** APPLICANT: TIMOTHY J. YOO, CHAPTER 7 TRUSTEE

Hearing re [98] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The objection to the Trustee's Final Report filed by New Horizon (discussed below) is **OVERRULED**. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$19,307.40 approved, but payment shall be limited to \$13,492.85 per Trustee's request. [*see* Doc. No. 97]

Total Expenses: \$242.90 [*see id.*]

Franchise Tax Board Administrative Expenses: \$1,708.21 [*see id.*]

U.S. Bankruptcy Court Costs: \$7,000 [*see id.*]

On June 25, 2020, the Court received a letter from Namisa Roberts, the principal of New Horizon Business Services, Inc. ("New Horizon"). The Court has docketed the letter--which was not served upon interested parties--and construes the letter as an opposition to the Trustee's Final Report (the "Opposition"). New Horizon filed a proof of claim against the estate in the amount of \$161,633 ("Claim 33"). New Horizon objects to the fact that

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Blue Global, LLC**

**Chapter 7**

it will not receive any distribution from the estate on account of Claim 33.

New Horizon's opposition is OVERRULED. The distribution contemplated in the Trustee's Final Report is consistent with the Bankruptcy Code. The Trustee realized gross receipts of \$321,147.92. The aggregate amount of timely filed unsecured claims is \$1,337,221.59, and the aggregate amount of tardily filed unsecured claims is \$312,933.00. (New Horizon's claim was filed tardily.) The funds realized by the Trustee are sufficient only to pay administrative claimants and the allowed priority claims of the Franchise Tax Board and the Tennessee Department of Revenue. None of the unsecured creditors who filed proofs of claim will receive a distribution from the estate.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Blue Global, LLC

Represented By  
Sanaz S Bereliani

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Monica Y Kim  
Jeffrey S Kwong

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, June 30, 2020**

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11:00 AM

**2:17-10900 Blue Global, LLC**

**Chapter 7**

**#104.00** APPLICANT: LEVENE NEALE BENDER YOO & BRILL, Attorney for Trustee

Hearing re [98] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

**Fees:** \$393,239.50 approved [*see* Doc. No. 93], but payment shall be limited to \$235,795.90 per Trustee's request [*see* Doc. No. 98].

**Expenses:** \$16,443.94 approved [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Blue Global, LLC**

**Chapter 7**

**Debtor(s):**

Blue Global, LLC

Represented By  
Sanaz S Bereliani

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Monica Y Kim  
Jeffrey S Kwong



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

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11:00 AM

**2:17-10900 Blue Global, LLC**

**Chapter 7**

**#105.00** Other: STECKBAUER WEINHART, LLP, Other Professional Fees

Hearing re [98] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/29/2020

See Cal. No. 103, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Blue Global, LLC

Represented By  
Sanaz S Bereliani

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Monica Y Kim  
Jeffrey S Kwong

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, June 30, 2020**

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11:00 AM

**2:17-10900 Blue Global, LLC**

**Chapter 7**

**#106.00** Other: FRANCHISE TAX BOARD, Other Chapter 7 Administrative Expenses

Hearing re [98] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/29/2020

See Cal. No. 103, incorporated in full by reference.

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

**Debtor(s):**

Blue Global, LLC

Represented By  
Sanaz S Bereliani

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Monica Y Kim  
Jeffrey S Kwong

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-10900 Blue Global, LLC**

**Chapter 7**

**#107.00** APPLICANT: HAHN FIFE & COMPANY, Accountant for Trustee

Hearing re [98] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

**Fees:** \$2,614.00 approved [*see* Doc. No. 95]

**Expenses:** \$477.50 approved [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Blue Global, LLC**

**Chapter 7**

**Debtor(s):**

Blue Global, LLC

Represented By  
Sanaz S Bereliani

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Monica Y Kim  
Jeffrey S Kwong

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-10900 Blue Global, LLC**

**Chapter 7**

**#108.00 UNITED STATES BANKRUPTCY COURT, Clerk of the Court Costs**

Hearing re [98] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

6/29/2020

See Cal. No. 103, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Blue Global, LLC

Represented By  
Sanaz S Bereliani

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Monica Y Kim  
Jeffrey S Kwong

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Tuesday, June 30, 2020

Hearing Room 1568

11:00 AM

2:17-24396 CRESTALLIANCE, LLC

Chapter 7

#109.00 APPLICANT: Trustee - David M. Goodrich

Hearing re [155] [160] applications for compensation

Docket 0

\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 6-10-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Tuesday, June 30, 2020

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11:00 AM

2:17-24396 CRESTALLIANCE, LLC

Chapter 7

#110.00 APPLICANT: Attorney for Trustee - Weiland, Golden & Goodrich, LLP

Hearing re [155] [160] applications for compensation

Docket 0

\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 6-10-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

**#111.00 Charges, U.S. Bankruptcy Court**

Hearing re [155] [160] applications for compensation

Docket 0

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 6-10-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen



United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Tuesday, June 30, 2020

Hearing Room 1568

11:00 AM

2:17-24396 CRESTALLIANCE, LLC

Chapter 7

#112.00 Fees, United States Trustee

Hearing re [155] [160]applications for compensation

Docket 0

\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 6-10-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

**#113.00 Other Chapter 7 Administrative Expenses - FRANCHISE TAX BOARD  
(ADMINISTRATIVE)**

Hearing re [155] [160] applications for compensation

Docket 0

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 6-10-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, June 30, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

**#114.00** Accountant for Trustee (Other Firm) - LEA Accountancy, LLP)

Hearing re [155] [160]applications for compensation

Docket 0

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 6-10-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-19305 Shirley Mae Velina Elamparo**

**Chapter 7**

**#115.00** APPLICANT: Trustee David M. Goodrich

Hearing re [28] Applications for chapter 7 fees and administrative expenses.

Docket 0

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$1,250 [*see* Doc. No. 27]

Total Expenses: \$80.50 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Shirley Mae Velina Elamparo**

**Chapter 7**

**Party Information**

**Debtor(s):**

Shirley Mae Velina Elamparo

Represented By  
Sevan Gorginian

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, June 30, 2020**

**Hearing Room 1568**

11:00 AM

**2:20-10987 Steve Lewis**

**Chapter 7**

Adv#: 2:20-01114 LANGLOIS FAMILY LAW APC v. LEWIS

**#116.00** Hearing  
RE: [11] Motion to Dismiss Adversary Proceeding

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-7-2020 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Steve Lewis

Represented By  
Allan D Sarver

**Defendant(s):**

STEVE LEWIS

Represented By  
Allan D Sarver

**Plaintiff(s):**

LANGLOIS FAMILY LAW APC

Represented By  
Ray B Bowen Jr

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11441 Kevin Huntelman**

**Chapter 7**

**#1.00 Show Cause Hearing re [26] Debtor To Appear And Show Cause Why Case Should Not Be Dismissed Because Of Debtor's Failure To Pay The Filing Fee In Installments.**

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-22-20 AT 10:00 AM**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Kevin Huntelman

Pro Se

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing re Assumption Objection Re: SETON Asserted by Cigna Entities [Doc. No. 4688]

FR. 5-20-20; 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#3.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Cigna Entities [Doc. No. 4366]

FR. 4-9-20; 4-29-20; 6-3-20

Docket 0

**Tentative Ruling:**

6/30/2020

Hearing **VACATED** as moot. Pursuant to the *Notice of Executory Contracts and Unexpired Leases Designated by Prime Healthcare Services, Inc. for Assumption and Assignment Concerning Certain Assets Related to St. Francis Medical Center* [Doc. No. 4873], the agreement at issue will not be assumed and assigned to Prime Healthcare Services, Inc. ("Prime"). Therefore, this counterparty's objection to assumption and assignment of the agreement to Prime is now moot.

Within seven days, the Debtors shall submit an omnibus order providing that all assumption objections as to agreements not assumed and assigned to Prime are moot.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Angeles IPA Medical Group [Doc. No. 4425]

FR. 4-9-20; 4-29-20; 6-3-20

Docket 4443

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** Hearing re Assumption Objection Re: SETON Asserted by Blue Shield [Doc. No. 4748]  
fr. 5-20-20; fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** Hearing re Assumption Objection Re: SETON Asserted by Aetna Life Ins. Co. [Doc. No. 4675]

fr. 5-20-20

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#7.00** Hearing re Assumption Objection Re: SETON Asserted by Microsoft Corp. [Doc. No. 4677]

FR. 5-20-20

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#8.00** Hearing re Assumption Objection Re: SETON Asserted by UnitedHealthcare Ins. Co. [Doc. No. 4678]

FR. 5-20-20

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#9.00** Hearing re Assumption Objection Re: SETON Asserted by Health Net of California, Inc. [Doc. No. 4681]

FR. 5-20-20

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#10.00** Hearing re Assumption Objection Re: SETON Asserted by Kaiser Foundation Hospitals [Doc. No. 4682]  
FR. 5-20-20  
fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#11.00** Hearing re Assumption Objection Re: SETON Asserted by Parallon Revenue Cycle Services, Inc. [Doc. No. 4686]

FR. 5-20-20

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#12.00** Hearing re Assumption Objection Re: SETON Asserted by Hooper Healthcare Consulting, LLC [Doc. No. 4690]

FR. 5-20-20

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#13.00** Hearing re Assumption Objection Re: SETON Asserted by Health Plan of San Mateo [Doc. No.4692]

FR. 5-20-20

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#14.00** Hearing re Assumption Objection Re: SETON Asserted by Anupam Aditi M.D. [Doc. No. 4693]

FR. 5-20-20

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#15.00** Hearing re Assumption Objection Re: SETON Asserted by Abbott Laboratories Inc. and Abbott Rapid Dagnostics Informatics, Inc. [Doc. No. 4728]

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#16.00** Hearing re Assumption Objection Re: SETON Asserted by GE HFS, LLC [Doc. No. 4731]

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#17.00** Hearing re Assumption Objection Re: SETON Asserted by Smith & Nephew, Inc. [Doc. No. 4733].

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#18.00** Hearing re Assumption Objection Re: SETON Asserted by NFS Leasing Inc. [Doc. No. 4749]

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#19.00** Hearing re Assumption Objection Re: SETON Asserted by AT&T Corp., AT&T Services, Inc., and Affiliates [Doc. No. 4745]

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#20.00** Hearing re Assumption Objection Re: Seton Asserted by 3M Corp. [Doc. No. 4736]

fr. 6-3-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#21.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Kaiser Foundation Hospitals [Doc.No. 4422]

FR. 4-9-20; 4-29-20

fr. 6-3-20

Docket 4443

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#22.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by GE HFS LLC [Doc. No. 4371]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#23.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Hooper Healthcare Consulting LLC.  
[Doc. No. 4392]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#24.00** Assumption Objection Re: ST. FRANCIS Asserted by Microsoft Corp. and Microsoft Licensing, GP  
[Doc. No. 4405]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#25.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Abbott Laboratories Inc. and Abbott Rapid Diagnostics Informatics, Inc. fka Alere Informatics, Inc. [Doc. No. 4409]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#26.00** Hearing re: Assumption Objection Re: ST. FRANCIS Asserted by SCAN Health Plan [Doc. No. 4414]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#27.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Smith & Nephew, Inc. [Doc. No. 4416]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#28.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by HealthNet of California, Inc. [Doc. No. 4419]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#29.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by California Physicians Service dbaBlue Shield of California [Doc. No. 4421]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#30.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Humana Ins. Co. and Humana Health Plan, Inc. [Doc. No. 4423]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#31.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Blue Shield of California Promise Health Plan fka Care 1st Health Plan [Doc. No. 4420]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#32.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Cardinal Health 200, LLC [Doc No.4418]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#33.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Cerner Corp. [Doc. No. 4415]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#34.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Roche Diagnostics Corp. [Doc. No. 4406]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#35.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by MedImpact Healthcare Systems, Inc.[Doc. No. 4408]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#36.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Aetna Life Ins. Co. [Doc. No. 4403]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#37.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by AppleCareMedical Group, Inc.,  
AppleCare Medical Group ST. FRANCIS Inc., and AppleCare Medical Management LLC [Doc. No. 4391]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#38.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Long Beach Memorial Medical [Doc. No. 4427]

FR. 4-9-20; 4-29-20

fr. 6-3-20

Docket 4443

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#39.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by A&T Corp. and AT&T Services, Inc.[Doc. No. 4424]

FR. 4-9-20; 4-29-20

fr. 6-3-20

Docket 4443

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#40.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by DaVita Inc. [Doc. No. 4407]

FR. 4-9-20; 4-29-20

fr. 6-3-20

Docket 4443

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#41.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by PIH Health Hospital Downey and PIH Health Hospital Whittier [Doc. No. 4443]

fr. 4-9-20; 4-29-20

fr. 6-3-20

Docket 4443

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#42.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by Parallon Revenue Cycle Services, Inc.  
fka The Outsource Group, Inc. [Doc. No. 4469]

**FR. 4-9-20;** 4-29-20

fr. 6-3-20

Docket 4443

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#43.00** Hearing re Assumption Objection Re: ST. FRANCIS Asserted by UnitedHealthcare Ins. Co. [Doc. No. 4354]

FR. 4-9-20; 4-29-20; 6-3-20

Docket 4443

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#44.00** Hearing re [4317] and [4345] re Objection with respect to the transfer of the SFMC **Medi-Cal** Provider Agreement.

fr. 5-13-20

fr. 6-10-20

Docket 0

**Tentative Ruling:**

6/30/2020

Hearing VACATED. The parties have reached a settlement resolving the objections of the California Department of Health Care Services. *See* Creditor California Department of Health Care Services's Notice of Agreement in Principle With the Debtors [Doc. No. 4977].

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#45.00** Hearing re [4567] Issues Regarding Transfer of Seton **Medi-Cal** Provider Agreement.

fr. 5-13-20

fr. 6-10-20

Docket 0

**Tentative Ruling:**

6/30/2020

Hearing VACATED. The parties have reached a settlement resolving the objections of the California Department of Health Care Services. *See* Creditor California Department of Health Care Services's Notice of Agreement in Principle With the Debtors [Doc. No. 4977].

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#46.00** Hearing RE [4285] Objection regarding transfer of the SFMC **Medicare** Provider Agreement.

fr. 5-13-20

fr. 6-10-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#47.00** Hearing re [4568] Hearing Re Issues Regarding Transfer of Seton **Medicare** Provider Agreement

fr. 5-13-20

fr. 6-10-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#47.10** Hearing re Assumption Objection Re: Seton Asserted by QuadraMed Affinity Corp. and Picis Clinical Solutions, Inc. [Doc. No. 4824]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#47.20** Hearing re Assumption Objection Re: St. Francis Asserted by QuadraMed Affinity Corp. and Picis Clinical Solutions, Inc. [Doc. No. 4824]

Docket 0

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#47.30** Hearing re Assumption Objection Re: Seton Asserted by Cerner Corp. [Doc. No. 4884]

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#47.40** Hearing re Hearing Re Assumption Objection Re: Seton Asserted by Maxim Healthcare Services, Inc. [Doc. No. 4886].

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 7-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#48.00** Hearing  
RE: [146] Motion RE: Objection to Claim Number 7 by Claimant Malnove  
Incorporated of Utah. Debtors' Objection to Proof of Claim No. 7

fr. 4-15-20

Docket 146

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#49.00** Hearing  
RE: [152] Motion RE: Objection to Claim Number 16 by Claimant Pearson Sales Company, Inc.. Debtors' Objection to Proof of Claim No. 16

fr. 4-15-20

Docket 152

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#50.00** Hearing  
RE: [150] Motion RE: Objection to Claim Number 12 by Claimant Lawrence Foods, Inc.. Debtors' Objection to Proof of Claim No. 12

fr. 4-15-20

Docket 150

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#51.00** Hearing  
RE: [148] Motion RE: Objection to Claim Number 11 by Claimant Vita-Pakt Citrus Products Co.. Debtors' Objection to Proof of Claim No. 11

fr. 4-15-20

Docket 148

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#52.00** Hearing  
RE: [170] Motion RE: Objection to Claim Number 27 by Claimant Ingredient Incorporated. Debtors' Objection to Proof of Claim No. 27

fr. 4-15-20

Docket 170

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#53.00** Hearing  
RE: [174] Motion RE: Objection to Claim Number 31 by Claimant Cargill  
Incorporated. Debtors' Objection to Proof of Claim No. 31

fr. 4-15-20

Docket 174

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#54.00** Hearing  
RE: [172] Motion RE: Objection to Claim Number 29 by Claimant Westrock CP, LLC.  
Debtors' Objection to Proof of Claim No. 29

fr. 4-15-20

Docket 172

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#55.00** Hearing  
RE: [161] Motion RE: Objection to Claim Number 22 by Claimant Lobasso  
Packaging. Debtors' Objection to Proof of Claim No. 22

fr. 4-15-20

Docket 161

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#56.00** Hearing  
RE: [159] Motion RE: Objection to Claim Number 21 by Claimant D&W Fine Pack LLC. Debtors' Objection to Proof of Claim No. 21

fr. 4-15-20

Docket 159

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#57.00** Hearing  
RE: [154] Motion RE: Objection to Claim Number 17 by Claimant Brian Muldoon  
Packaging Services. Debtors' Objection to Proof of Claim No. 17

fr. 4-15-20

Docket 154

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#58.00** Hearing  
RE: [157] Motion RE: Objection to Claim Number 23 by Claimant Graphic  
Packaging International. Debtors' Objection to Proof of Claim No. 23

fr. 4-15-20

Docket 157

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#59.00** Hearing  
RE: [176] Motion RE: Objection to Claim Number 32 by Claimant TIC Gums, Inc..  
Debtors' Objection to Proof of Claim No. 32

fr. 4-15-20

Docket 176

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

See Cal. No. 3, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#60.00** Hearing  
RE: [143] Motion RE: Objection to Claim Number 5 by Claimant Villegas Trucking, Inc. ; Declaration of Alan W. Forsley and Michael Bonert in Support with proof of service  
  
fr. 4-15-20

Docket 143

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

4/14/2020

Order entered. Hearings on the Claim Objections **CONTINUED** to **July 1, 2020, at 10:00 a.m.**

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#61.00** Hearing  
RE: [198] Motion RE: Objection to Claim Number 24 by Claimant Stratas Foods  
LLC. Debtors' Objection to Proof of Claim No. 24

fr. 4-22-20

Docket 198

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#62.00** Hearing  
RE: [196] Motion RE: Objection to Claim Number 28 by Claimant Capitol  
Distribution Company, LLC. Debtors' Objection to Proof of Claim No. 28

fr. 4-22-20

Docket 196

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#63.00** Hearing  
RE: [211] Motion RE: Objection to Claim Number 26 by Claimant Packaging Corporation of America. Debtors' Objection to Proof of Claim No. 26

fr. 4-22-20

Docket 211

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 1, 2020

Hearing Room 1568

10:00 AM

2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#64.00 Hearing  
RE: [215] Motion RE: Objection to Claim Number 13 by Claimant McMaster-Carr  
Supply Co. Debtors' Objection to Proof of Claim No. 13

fr. 4-22-20

Docket 215

\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#65.00** Hearing  
RE: [209] Motion RE: Objection to Claim Number 36 by Claimant Empire  
Marketing Strategies, Inc.. Debtors' Objection to Proof of Claim No. 36

fr. 4-22-20

Docket 209

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#66.00** Hearing  
RE: [207] Motion RE: Objection to Claim Number 35 by Claimant HFA, Inc..  
Debtors' Objection to Proof of Claim No. 35

fr. 4-22-20

Docket 207

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#67.00** Hearing  
RE: [200] Motion RE: Objection to Claim Number 25 by Claimant Seneca Foods Corporation. Debtors' Objection to Proof of Claim No. 25

fr. 4-22-20

Docket 200

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#68.00** Hearing  
RE: [222] Motion RE: Objection to Claim Number 18 by Claimant Direct Packaging and Printing, Inc.. Debtors' Objection to Proof of Claim No. 18

fr. 4-22-20

Docket 222

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 1, 2020

Hearing Room 1568

10:00 AM

2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#69.00 Hearing  
RE: [229] Motion RE: Objection to Claim Number 33 by Claimant J.H. Rose  
Logistics, LLC. Debtors' Objection to Proof of Claim No. 33

fr. 4-22-20

Docket 229

\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#70.00** Hearing  
RE: [220] Motion RE: Objection to Claim Number 2 by Claimant Uline, Inc.. Debtors'  
Objection to Proof of Claim No. 2

fr. 4-22-20

Docket 220

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
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Wednesday, July 1, 2020

Hearing Room 1568

10:00 AM

2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#71.00 Hearing  
RE: [217] Motion RE: Objection to Claim Number 3 by Claimant County of Orange.  
Debtors' Objection to Proof of Claim No. 3

fr. 4-22-20

Docket 217

\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#72.00**

Hearing

RE: [194] Motion RE: Objection to Claim Number 30 by Claimant Coastal Carriers, LLC. Debtors' Objection to Proof of Claim No. 30

fr. 4-22-20

Docket 194

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-2020 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Wednesday, July 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10264 450 S. Western, LLC, a California limited liability**

**Chapter 11**

**#73.00** HearingRE: [134] Motion to Use Cash Collateral -- Debtor's Third Motion For Order Authorizing Use Of Cash Collateral From July 5, 2020 Through And Including October 3, 2020; Memorandum Of Points And Authorities In Support Thereof, With Proof Of Service

Docket 134

**Tentative Ruling:**

6/30/2020

For the reasons set forth below, the Debtor is authorized to use cash collateral in accordance with the Budget through and including October 3, 2020. A hearing on the use of cash collateral subsequent to October 3, 2020 shall take place on **September 23, 2020, at 10:00 a.m.** The hearing will go off calendar if a sale of the Property has closed prior to the hearing date.

**Pleadings Filed and Reviewed:**

- 1) Debtor's Third Motion for Order Authorizing Use of Cash Collateral from July 5, 2020 Through and Including October 3, 2020 [Doc. No. 134] (the "Motion")
  - a) Notice of [Motion] [Doc. No. 135]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On January 10, 2020 (the "Petition Date"), 450 S. Western, LLC (the "Debtor") filed a voluntary Chapter 11 petition. On January 16, 2020, the Court entered an interim order authorizing the Debtor to use cash collateral through and including February 20, 2020. *See* Doc. No. 31. On March 10, 2020, the Court authorized the Debtor to use cash collateral through and including April 4, 2020, *see* Doc. No. 83, and on April 3, 2020, the Court extended the authorization to use cash collateral through and including July 4, 2020. *See* Doc. No. 107.

The Court set this hearing to determine whether the Debtor should be authorized to use cash collateral subsequent to July 4, 2020. The Debtor seeks authorization to use cash collateral through and including October 3, 2020, on the same terms and conditions as have been previously approved. No opposition to the Motion is on file.

The Debtor owns and operates a three-story, 80,316 square foot shopping center—commonly known as California Marketplace—located at the intersection of South

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**CONT... 450 S. Western, LLC, a California limited liability Chapter 11**

Western Avenue and 5th Street (the "Property"). The Property serves the Los Angeles Korean community and contains 28 stores. As of the Petition Date, the Property had a 98% occupancy rate.

The Debtor sought bankruptcy protection primarily as the result of litigation with Admire Capital Lending, LLC ("Admire") and Belmont Two Investment Holdings, LLC ("Belmont"). On September 10, 2015, the Debtor entered into an unsecured promissory note with Belmont and Admire, in the principal amount of \$9.75 million (the "Note"). In litigation before the Los Angeles Superior Court, Belmont and Admire assert a right to convert the Note to equity (the "Conversion Option"). The Debtor disputes the Conversion Option.

On May 14, 2020, the Court approved a stipulation between the Debtor and two of the prepetition secured creditors, which established the amount of those prepetition secured creditors' claims as follows:

- 1) Pontis Capital, LLC—\$4,684,959.75 (as of the Petition Date)
- 2) Five West Capital, LP—\$5,855,998.95 (as of the Petition Date)

The Debtor's other significant creditor is G450 LLC ("G450"), which asserts a secured claim in the amount of \$30,063,331.49. *See* Proof of Claim 9-1.

The Debtor's current plan is to sell the Property. The Debtor has retained CBRE, Inc. as a broker. More than 200 parties have signed non-disclosure agreements with respect to the Property. The Debtor is in the process of selecting a stalking horse bidder and anticipates filing a sale motion sometime in July, with an auction expected during August 2020.

Cash collateral will be used to fund the Property's operating expenses during the marketing period. Primary expenses are for wages, insurance, utilities, taxes and license fees, and quarterly fees owed to the Office of the United States Trustee. The Debtor proposes to make monthly adequate protection payments of \$50,000 to G450, the most senior secured creditor.

## **II. Findings and Conclusions**

Section 363(c)(2) requires court authorization for the use of cash collateral unless "each entity that has an interest in such cash collateral consents." In the Ninth Circuit, satisfaction of §363(c)(2)(A) requires the "affirmative express consent" of the secured creditor; "implied consent," resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368–69

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**CONT... 450 S. Western, LLC, a California limited liability Chapter 11**

(9th Cir. 1987). Absent affirmative express consent, the Debtors "may not use" cash collateral absent the Court's determination that the use is "in accordance with the provisions" of Section 363—that is, that the secured creditor's interest in the cash collateral is adequately protected. § 363(c)(2)(B) and (e).

A secured creditor's interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365 (1988).

Most of the Debtor's income is derived from rental payments received from tenants at the Property. The majority of the rental payments come from the Debtor's largest tenant, the Gaju Market Corp. (the "Gaju Market"), which pays monthly rent of \$173,952. The Court takes judicial notice of the fact that the Gaju Market is a grocery store that remains open for business notwithstanding the COVID-19 pandemic.

In connection with prior cash collateral hearings, the Court has found that the Property was not declining in value. The Court finds it appropriate to maintain that finding until presented with concrete evidence to the contrary. The Court notes that the instant bankruptcy petition was precipitated by litigation with Belmont and Admire, not by operating losses. The Debtor's largest tenant is a grocery store whose cash flows are more resilient to the effects of the COVID-19 pandemic than those of other retail establishments. It is also worth emphasizing that the value of the Property is not likely to decline as a result of short-term liquidity issues that tenants may experience as a result of the pandemic. The Property is situated in a desirable location and has historically been profitable. Any effects of the pandemic upon profitability will most likely be temporary.

Based on the absence of evidence of declining value and the proposed adequate protection payments to G450, the Court finds that secured creditors with an interest in the Debtor's cash collateral are adequately protected. In addition, the use of cash collateral to maintain the California Marketplace's operations constitutes further adequate protection. *See In re Megan-Racine Associates, Inc.*, 202 B.R. 660, 663 (Bankr. S.D.N.Y. 1996) (concluding that "[a]s long as there was a continuous income stream being generated by the Debtor, the fact that the Debtor consumed a portion of those monies to operate and maintain the facility each month did not diminish the value of the [secured creditor's] interest in the [cash collateral]").

The Debtor is authorized to use cash collateral in accordance with the Budget through and including October 3, 2020. A hearing on the use of cash collateral subsequent to October 3, 2020 shall take place on **September 23, 2020, at 10:00 a.m.** The hearing will go off calendar if a sale of the Property has closed prior to the hearing

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**CONT... 450 S. Western, LLC, a California limited liability**  
date.

**Chapter 11**

The Debtor shall submit further evidence in support of the continued use of cash collateral, including an updated Budget, by no later than **September 2, 2020**. By that same date, the Debtor shall provide notice of the continued hearing and shall file a proof of service so indicating. Opposition to the continued use of cash collateral is due by **September 9, 2020**; the Debtors' reply to any opposition is due by **September 16, 2020**.

Within seven days of the hearing, the Debtor shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, July 2, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#1.00** HearingRE: [4881] Motion for approval of chapter 11 disclosure statement (II) Solicitation and Voting Procedures; (III) Notice and Objection Procedures For Confirmation of Amended Joint Plan;(IV) Setting Administrative Claims Bar Date; and (V) Granting Related Relief; Memorandum of Points and Authorities In Support Thereof

Docket 4881

**Tentative Ruling:**

7/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Court approves the Amended Disclosure Statement as containing adequate information, and approves the voting and solicitation procedures proposed by the Debtors.

**Pleadings Filed and Reviewed:**

- 1) Motion to Approve Disclosure Statement:
  - a) Disclosure Statement Describing Amended Joint Chapter 11 Plan of Liquidation (Dated June 16, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee [Doc. No. 4880] (the "Disclosure Statement")
  - b) Notice of Hearing and Joint Motion for an Order Approving: (I) Proposed Disclosure Statement; (II) Solicitation and Voting Procedures; (III) Notice and Objection Procedures for Confirmation of Amended Joint Plan; (IV) Setting Administrative Claims Bar Date; and (V) Granting Related Relief [Doc. No. 4881] (the "Motion")
    - i) Application for Order Setting Hearing on Shortened Notice [Doc. No. 4885]
    - ii) Order Granting Application and Setting Hearing on Shortened Notice [Doc. No. 4889]
    - iii) Notice of Hearing on Joint Motion for an Order Approving: (I) Proposed Disclosure Statement; (II) Solicitation and Voting Procedures; (III) Notice and Objection Procedures for Confirmation of Amended Joint Plan; (IV)

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**CONT... Verity Health System of California, Inc. Chapter 11**

- Setting Administrative Claims Bar Date; and (V) Granting Related Relief [Doc. No. 4893]
- iv) Declaration of Service by Kurtzman Carson Consultants, LLC [Doc. No. 4962]
- c) Amended Joint Chapter 11 Plan of Liquidation (Dated June 16, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee [Doc. No. 4879] (the "Plan")
- 2) Opposition Papers:
- a) Objection of Cigna Entities to Disclosure Statement [Doc. No. 4927]
- b) Creditor California Department of Health Care Services's Objections to Debtors' Proposed Disclosure Statement and Amended Joint Chapter 11 Plan of Liquidation [Doc. No. 4928]
- c) Objection of the United States, on Behalf of the U.S. Department of Health and Human Services and Centers for Medicare and Medicaid Services to Disclosure Statement [Doc. No. 4934]
- d) Strategic Global Management, Inc.'s Reservation of Rights Regarding Disclosure Statement [Doc. No. 4937]
- e) Objection to Approval of Disclosure Statement [filed by the Medical Staff of Seton Medical Center] [Doc. No. 4939]
- i) Withdrawal of Objection to Approval of Disclosure Statement [Doc. No. 4979]
- 3) Stipulations Resolving Issues:
- a) Stipulation with the California Attorney General Approving Certain Language to be Included in Any Order Approving the Disclosure Statement Describing Amended Joint Plan of Liquidation (Dated June 16, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee [Doc. No. 4951]
- b) Order Approving Stipulation with the California Attorney General Approving Certain Language to be Included in Any Order Approving the Disclosure Statement Describing Amended Joint Plan of Liquidation (Dated June 16, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee [Doc. No. 4952]
- 4) Omnibus Reply in Support of Joint Motion for an Order Approving: (I) Proposed Disclosure Statement; (II) Solicitation and Voting Procedures; (III) Notice and Objection Procedures for Confirmation of Amended Joint Plan; (IV) Setting Administrative Claims Bar Date; and (V) Granting Related Relief [Doc. No. 4976] (the "Reply")



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CONT... Verity Health System of California, Inc.

Chapter 11

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

On June 16, 2020, the Debtors, the Official Committee of Unsecured Creditors (the "Committee"), and the Prepetition Secured Creditors [**Note 1**] (collectively, the "Plan Proponents") filed the *Amended Joint Chapter 11 Plan of Liquidation (Dated June 16, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* [Doc. No. 4879] (the "Plan") and an accompanying disclosure statement [Doc. No. 4880] (the "Disclosure Statement").

The Disclosure Statement provides the following general overview of the Plan [**Note 2**]:

The Plan essentially implements a comprehensive settlement and compromise between the holders of the Secured 2005 Revenue Bond Claims, the Debtors and the Committee, which enables the Plan to become effective in these Chapter 11 Cases immediately after the sale of the Debtors' remaining Hospital assets, ends the incurrence and expenditure of continuing administrative expenses of the Debtors, permits cash payments to be made to certain creditors on or about the Effective Date of the Plan and thereafter, and resolves the remaining litigation pending against the Prepetition Secured Creditors in these proceedings. Specifically, the comprehensive settlement provides for the following cash payments to be made on or about the Effective Date of the Plan: (i) full payment of the claims of the Prepetition Secured Creditors other than the holders of Secured 2005 Revenue Bond Claims; (ii) partial payment of the Secured 2005 Revenue Bond Claims in an amount not less than \$124.2 million; (iii) full payment of all Allowed Mechanics Lien Claims; and (iv) full payment of all Allowed Administrative Claims. In return for the agreement by the Holders of the Secured 2005 Revenue Bond Claims to accept a partial payment of their claims on the Effective Date and to allow full payment of the Allowed Administrative Claims and Mechanics Lien Claims on or about the Effective Date, the Debtors shall: (i) dismiss with prejudice certain litigation commenced by the Committee for the benefit of the Debtors against the Prepetition Secured Creditors, and waive preserved claims against Verity MOB Financing LLC and Verity MOB Financing II LLC; and (ii) create a Liquidating Trust to collect, liquidate and realize upon the Debtors' remaining assets, which Liquidating Trust shall issue

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CONT...

**Verity Health System of California, Inc.**

**Chapter 11**

(x) First Priority Trust Beneficial Interests to the 2005 Revenue Bonds Trustee in the amount of the unpaid deficiency of the Secured 2005 Revenue Bond Claims which remains outstanding after the initial payment on the Effective Date with respect to the 2005 Revenue Bond Claims, and (y) Second Priority Trust Beneficial Interests for the benefit all holders of Allowed General Unsecured Claims. As the Debtors' remaining assets are collected, the Liquidating Trust shall make payments to the 2005 Revenue Bonds Trustee, as holder of the First Priority Trust Beneficial Interests for the benefit of the holders of the Secured 2005 Revenue Bond Claims, until such Interests are paid in full, with interest; thereafter, the Liquidating Trust shall make payments to holders of Second Priority Trust Beneficial Interests until the holders thereof are paid in full.

Disclosure Statement at 15–16. [Note 3]

Plan Proponents move for an order finding that the Disclosure Statement contains "adequate information" within the meaning of § 1125. *See* Doc. No. 4881 (the "Motion"). As discussed in Section II below, all objections to the Motion have either been withdrawn or have been resolved and are now moot.

## **II. Findings and Conclusions**

### **A. Issues That Have Been Resolved**

In response to objections asserted by various parties, the Plan Proponents have agreed to modify the Disclosure Statement. As more fully described below, the Court finds that proposed modifications resolve the objections. Accordingly, the objections are overruled as moot.

#### **1. Objection of the California Department of Health Care Services ("DHCS")**

DHCS objected to the Disclosure Statement's failure to include information regarding the status of the resolution of DHCS' claims against Seton and St. Francis arising from the transfer of each hospital's Medi-Cal Provider Agreement. DHCS asserted that such information was material since the closing of the sale of each hospital is conditioned upon resolution of DHCS' claims.

DHCS has reached agreements with Seton and St. Francis fixing the amount of DHCS' claims against each hospital in connection with the transfer of each hospital's Medi-Cal Provider Agreement. *See* Doc. No. 4977. Disputes between DHCS and the Debtors regarding this issue have been resolved and no longer impose an impediment to the closing of the sale. It is not necessary for the Disclosure Statement to contain information regarding this issue.

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DHCS also objected to the Disclosure Statement's description of the dismissal of a prior appeal. DHCS noted that a footnote in the Disclosure Statement indicated that the appeal was dismissed as moot, when in fact the appeal was dismissed after the Debtors and DHCS reached a settlement that, among other things, provided for the withdrawal of the decision being appealed. The Plan Proponents have agreed to revise the footnote at issue to address DHCS' concerns.

2. Objection of the U.S. Department of Health and Human Services and Centers for Medicare and Medicaid Services ("HHS")

HHS asserted that the Disclosure Statement did not provide adequate information concerning HHS' potential objections concerning the transfer of Medicare Provider Agreements in connection with the St. Francis Sale and Seton Sale. To resolve the objection, HHS and the Plan Proponents have agreed to include the following language in the Amended Disclosure Statement:

The transfer of the Debtors' two Medicare Provider Agreements pursuant to: (a) the Seton Asset Purchase Agreement, dated March 30, 2020 [Docket No. 4360], entered into by and between AHMC, as buyer, and Seton and certain other Debtors, as sellers; and (b) the SFMC Asset Purchase Agreement, dated April 3, 2020 [Docket No. 4471], entered into by and between Prime, as buyer, and SFMC and certain other Debtors, as sellers, is the subject of ongoing settlement discussions and negotiations between HHS and the Debtors. The parties have entered into various stipulations and orders extending the time to file supplemental briefing and continuing the hearing date on the Medicare Provider Agreement transfer issue. Currently, pursuant to an order approving the parties' further stipulation entered on June 18, 2020 [Docket No. 4902], the hearing date on the Medicare Provider Agreements transfer issue is July 15, 2020 at 10:00 a.m. Thus, further governmental approval is necessary before the Medicare Provider Agreements may be transferred consensually to AHMC or Prime. HHS reserves the right to assert that its proofs of claim constitute secured claims as of the Petition Date to the extent of its setoff rights, pursuant to § 506(a). The Debtors and HHS are currently engaged in settlement discussions concerning a mutually agreeable resolution to the Medicare Provider Agreements transfer issue.

The Court finds the stipulated language to be appropriate.

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**Chapter 11**

3. Objection of the Cigna Entities

Cigna Healthcare of California, Inc., Cigna Health and Life Insurance Company, Life Insurance Company of North America, Cigna Dental Health of California, Inc., Cigna Dental Health Plan of Arizona, Inc., and Cigna Dental Health of Texas, Inc. (collectively, the "Cigna Entities") asserted that the Disclosure Statement did not contain adequate information because it failed to specify whether certain Cigna contracts will be assumed or rejected.

The Plan Proponents have agreed to include in the Amended Disclosure Statement and Amended Plan the following provision requested by the Cigna Entities:

The Debtors shall, no later than five (5) business days prior to the hearing on confirmation of the Plan, provide Cigna with written notice of its irrevocable decision as to whether or not the Debtors propose to assume or reject each of the Cigna Contracts as part of the Plan.

The Cigna Entities also objected to the Disclosure Statement and Plan's provisions regarding the timing of payment of administrative expense claims. The Cigna Entities noted that under the Plan, Priority Tax Claims and Priority Non-Tax Claims (which are held by the Cigna Entities) would be paid within fourteen days after such claims became allowed "or as soon as reasonably practicable thereafter." The Cigna Entities asserted that as a result of the qualifying language "as soon as reasonable practicable thereafter," it was possible that the Priority Tax Claims could be paid before Cigna's Priority Non-Tax Claims, in contravention of the Bankruptcy Code's priority scheme.

To resolve the Cigna Entities' objection, the Plan Proponents have agreed to modify the provision pertaining to the treatment of Priority Non-Tax Claims as follows (modifications in **bold**):

Treatment. Except to the extent that a Holder of a Priority Non-Tax Claim agrees to a less favorable treatment of such Claim, each such Holder shall receive payment in Cash in an amount equal to the amount of such Allowed Claim, payable on the later of the Effective Date and the date that is fourteen (14) Days after the date on which such Priority Non-Tax Claim becomes an Allowed Priority Non-Tax Claim, in each case, or as soon as reasonably practicable thereafter **in accordance with the priority scheme set forth in the Bankruptcy Code.**

The Court finds that the proposed modifications with respect to the assumption of

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**Chapter 11**

agreements and the treatment of Priority Non-Tax Claims are appropriate and resolve the Cigna Entities' objections.

4. Objection of the Medical Staff of Seton Medical Center (the "Seton Medical Staff")

The Seton Medical Staff asserted that the Disclosure Statement's description of the Plan's provisions pertaining to deemed substantive consolidation was inadequate. The Seton Medical Staff subsequently withdrew its objection.

5. Reservation of Rights of Strategic Global Management, Inc. ("SGM")

The Plan provides that the deposit made by SGM in connection with the failed SGM Sale, in the amount of \$30.5 million (the "Deposit"), will be distributed to creditors. SGM filed a Reservation of Rights, stating that that the Debtors' and SGM's rights in the Deposit will be determined by the District Court, which is presiding over litigation in which the Debtors assert an entitlement to the Deposit.

In response to SGM's informal request, [Note 4] the Plan Proponents have agreed to include the following language in the Amended Disclosure Statement:

The Plan Proponents acknowledge that SGM disputes the Debtors' claim to the Deposit, and SGM contends that the Deposit must be returned to SGM. The Debtors and the Plan Proponents dispute the contentions and claims of SGM to the Deposit, and contend that the Deposit is an asset of the Debtors' estates, free and clear of any rights or claims of SGM, and should be distributed in accordance with the Plan. As provided in the Plan, on the Effective Date, all rights of the Debtors against SGM, including, without limitation, all rights to recover the Deposit, are being transferred to the Liquidating Trust. The Plan shall be amended to provide, and the Confirmation Order shall state, that the Liquidating Trust shall not distribute the Deposit to creditors in accordance with the Plan or take any other action which would reduce or dissipate the Deposit, unless permitted by a judgment or an order entered by the District Court having jurisdiction over the Adversary Proceeding, and such judgment or order has not been stayed. In the event an appeal is taken from any such judgment or order, the party taking the appeal shall have the right to seek a stay pursuant to the applicable Federal Rules of Civil Procedure and Federal Rules of Appellate Procedure. Nothing contained in the Plan or the Disclosure Statement shall modify, alter or change the rights of the Debtors and the Liquidating Trust, on the one hand, and SGM, on the other hand, to any claim or rights to the Deposit. All such claims and rights are expressly reserved and preserved.

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CONT... **Verity Health System of California, Inc.**

**Chapter 11**

The Court finds that the proposed language provides adequate information to creditors with respect to the Plan's treatment of the Deposit.

6. Stipulation Between the Plan Proponents and the California Attorney General

The Court has approved a stipulation between the Plan Proponents and the Attorney General providing that the following language will be included in the Amended Disclosure Statement and in any order approving the Amended Disclosure Statement:

Nothing in this Order or the Disclosure Statement shall modify or amend paragraph 38 of the SFMC Sale Order or paragraph 35 of the Seton Sale Order, each of which shall remain in full force and effect.

**B. The Amended Disclosure Statement Contains Adequate Information**

Section 1125 provides that a disclosure statement must contain "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, ... that would enable ... a hypothetical investor of the relevant class to make an informed judgment about the plan." 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." §1125.

Courts interpreting § 1125(a) have explained that the "primary purpose of a disclosure statement is to give the creditors the information they need to decide whether to accept the plan." *In re Monnier Bros.*, 755 F.2d 1336, 1342 (8th Cir. 1985). "According to the legislative history, the parameters of what constitutes adequate information are intended to be flexible." *In re Diversified Investors Fund XVII*, 91 B.R. 559, 560 (Bankr. C.D. Cal. 1988). As explained by one court:

Relevant factors for evaluating the adequacy of a disclosure statement may include: (1) the events which led to the filing of a bankruptcy petition; (2) a description of the available assets and their value; (3) the anticipated future of the company; (4) the source of information stated in the disclosure statement; (5) a disclaimer; (6) the present condition of the debtor while in Chapter 11; (7) the scheduled claims; (8) the estimated return to creditors under a Chapter 7 liquidation; (9) the accounting method utilized to produce financial information and the name of the accountants responsible for such information; (10) the future

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management of the debtor; (11) the Chapter 11 plan or a summary thereof; (12) the estimated administrative expenses, including attorneys' and accountants' fees; (13) the collectability of accounts receivable; (14) financial information, data, valuations or projections relevant to the creditors' decision to accept or reject the Chapter 11 plan; (15) information relevant to the risks posed to creditors under the plan; (16) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers; (17) litigation likely to arise in a nonbankruptcy context; (18) tax attributes of the debtor; and (19) the relationship of the debtor with affiliates.

*In re Metrocraft Pub. Services, Inc.*, 39 B.R. 567, 568 (Bankr. Ga. 1984).

However, "[d]isclosure of all factors is not necessary in every case." *Id.*

The Court finds that the Amended Disclosure Statement contains information adequate to enable creditors to make an informed decision on the Plan. Among other things, the Amended Disclosure Statement contains detailed information regarding the following:

- 1) Events leading to the commencement of these Chapter 11 cases, including the Debtors' prepetition business operations, capital structure, and retirement benefit plans.
- 2) Significant events that occurred during the Chapter 11 cases, including information regarding resolved and ongoing adversary proceedings.
- 3) A broad general overview of the Plan, as well as a detailed description of the Plan's classification structure.
- 4) A liquidation analysis under Chapter 7 of the Bankruptcy Code.
- 5) A description of the tax consequences of the Plan.
- 6) A discussion of risk factors with respect to the Plan and the Debtors.
- 7) A discussion of the requirements for Plan confirmation.
- 8) A description of the releases and injunctions provided for in the Plan.

**C. The Proposed Voting and Solicitation Procedures Are Approved**

The Court approves the voting and solicitation procedures proposed by the Debtors. The Court adopts the Debtors' proposed timeline regarding the confirmation hearing, as follows [Note 5]:

- 1) Voting Record Date—July 2, 2020
- 2) Entry of Disclosure Statement Order—July 2, 2020

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- 3) Solicitation Commencement Deadline—July 9, 2020
- 4) Deadline to Object or File a Motion to Estimate Claims for Voting Purposes—July 23, 2020
- 5) Voting Objection Deadline—July 23, 2020
- 6) Administrative Claims Bar Date—July 29, 2020
- 7) Voting Deadline—July 30, 2020, at 4:00 p.m. (prevailing local time)
- 8) Confirmation Objection Deadline—July 30, 2020
- 9) Debtors' Deadline to File Ballot Tabulation Report, Memorandum of Law in Support of Confirmation, Proposed Confirmation Order, and Response to Objections to Plan Confirmation—August 5, 2020
- 10) Confirmation Hearing—August 12, 2020, at 10:00 a.m. (prevailing local time).

As a result of the COVID-19 pandemic, the Confirmation Hearing will take place by telephone, and the courtroom will be unavailable for in-court appearances. The Court has reviewed and approves the proposed *Form of Confirmation Hearing Notice*, *Form of Notice of Non-Voting Accepting Status and Confirmation Hearing*, and *Form of Notice of Non-Voting Rejecting Status and Confirmation Hearing*, except that ¶ 25 of each respective Notice shall include the following additional language (additional language is in **bold**):

On August 12, 2020, at 10:00 a.m. (Prevailing Pacific Time), or as soon thereafter as counsel may be heard, a hearing (the "Confirmation Hearing") will be held before the Honorable Ernest M. Robles, United States Bankruptcy Judge, at the Bankruptcy Court, 255 E. Temple Street, Courtroom 1568, Los Angeles, California 90012 to consider (i) confirmation of the Plan, as the same may be amended or modified; and (ii) such other and further relief as may be just and appropriate. **As a result of the COVID-19 pandemic, the courtroom will be unavailable for in-court appearances. All parties shall appear at the Confirmation Hearing by telephone via CourtCall. To make a telephonic appearance, contact CourtCall at 888-882-6878, ext. 188 no later than 3 p.m. on the day prior to the hearing. The cost for persons representing themselves has been waived.**

### **III. Conclusion**

Based upon the foregoing, the Amended Disclosure Statement and the proposed voting and solicitation procedures are approved. By no later than **July 2, 2020**, the Debtors shall submit an order incorporating this tentative ruling by reference.



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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The Prepetition Secured Creditors are UMB Bank, N.A., as Master Trustee, Wells Fargo Bank, National Association, as 2005 Revenue Bonds Trustee, U.S. Bank, National Association as 2015 Notes Trustee and 2017 Notes Trustee, Verity MOB Financing LLC and Verity MOB Financing II, LLC.

**Note 2**

Capitalized terms not defined in the excerpt quoted below have the meaning set forth in the Plan.

**Note 3**

Page citations are to the ECF pagination, which is automatically affixed to the top of each page of every document filed with the Court, rather than to the document's internal pagination.

**Note 4**

In its Reservation of Rights, SGM did not assert that the Disclosure Statement failed to include adequate information with respect to the Plan's treatment of the Deposit.

**Note 5**

Capitalized terms have the meaning set forth in the Motion.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II

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CONT...

**Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**United States Bankruptcy Court  
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10:00 AM

**2:20-14870 Melissa L Loe**

**Chapter 7**

**#1.00** Hearing  
RE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Honda FIT VIN: JHMGK5H57GX040016 . (Kaufmann, Kelly)

Docket 9

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL OF MOTION FILED  
6/26/20**

**Tentative Ruling:**

- NONE LISTED -

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

Melissa L Loe	Pro Se
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**Trustee(s):**

Peter J Mastan (TR)	Pro Se
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**2:20-14870 Melissa L Loe**

**Chapter 7**

**#2.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: VISA Platinum Credit Card .  
(Kaufmann, Kelly)

Docket 11

**Tentative Ruling:**

7/2/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is DENIED without prejudice.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Personal Property) [Doc. No. 11] (the "Motion")
2. As of the preparation of this tentative ruling, Debtor has not filed an opposition

**I. Facts and Summary of Pleadings**

Debtor Melissa L. Loe (the "Debtor") filed this voluntary chapter 7 case on May 28, 2020 (the "Petition Date"). On June 10, 2020, Washington State Employees Credit Union (the "Movant") filed a "Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Personal Property)" [Doc. No. 11] (the "Motion") seeking relief from the automatic stay pursuant to § 362(d)(1) and (d)(2) with respect to funds totaling \$250 (the "Pledged Funds"). The Movant asserts that the Pledged Funds were provided by the Debtor as security in connection with a credit application with the Movant. The Movant intends to apply the Pledged Funds against the Debtor's outstanding prepetition credit card balance of \$246.79. In support of the Motion, the Movant attached a document captioned "Visa Master Loan Application" as Exhibit 1, which is identified as a credit application on page 7, paragraph 5(d), of the Motion (the "Credit Application").

As of the date of the preparation of this tentative ruling, the Debtor has not filed an

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opposition.

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## **II. Findings of Fact and Conclusions of Law**

Under 11 U.S.C. § 362(d)(1), the Court shall grant relief if the movant's interest in the property is not protected by an adequate equity cushion. Under 11 U.S.C. § 362(d)(2), the court shall grant relief from the stay if "(A) the debtor does not have any equity in such property; and (B) such property is not necessary for an effective reorganization." In a stay-relief motion under either § 362(d)(1) or (d)(2), a creditor "must establish the validity and perfection of its security interest and the amount of the debt." *See In re Dahlquist*, 34 B.R. 476, 481 (Bankr. D.S.D. 1983).

Here, the Movant argues that it is entitled to stay relief with respect to the Pledged Funds "by virtue of its membership and contractual agreements with the Debtor." Motion at 13. However, nothing in the Credit Application substantiates a perfected interest in the Pledged Funds in favor of Movant, nor does the Credit Application require the Debtor to provide any form of security in exchange for credit. In fact, neither the Credit Application nor the Debtor's schedules make reference to the Pledged Funds. In Schedule C, the Debtor lists checking and savings accounts with the Movant, both accounts with a balance of \$0.00. In sum, the Movant has not provided sufficient evidence corroborating the validity and perfection of its interest in the Pledged Funds.

On the present record, the Court cannot determine that Movant is entitled to relief from stay. The Movant may file an amended relief from stay motion and submit supplemental information therein concerning its purported interest in the Pledged Funds, if capable of doing so.

## **III. Conclusion**

Based upon the foregoing, the tentative ruling is to DENY the Motion without prejudice.

The Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an

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opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Melissa L Loe

Pro Se

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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**2:20-10987 Steve Lewis**

**Chapter 7**

Adv#: 2:20-01114 LANGLOIS FAMILY LAW APC v. LEWIS

**#1.00** Hearing  
RE: [11] Motion to Dismiss Adversary Proceeding  
  
FR. 6-30-20

Docket 11

**Tentative Ruling:**

7/6/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion to Dismiss is GRANTED, with leave to amend. A First Amended Complaint shall be filed by no later than **July 21, 2020**. The Pretrial Status Conference, set for July 14, 2020, at 10:00 a.m., is VACATED. Upon the filing of the First Amended Complaint, the Clerk of the Court will issue a Summons and Scheduling Order setting forth updated dates governing this action, including the date of a continued Pretrial Status Conference.

**Pleadings Filed and Reviewed:**

- 1) Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. § 727(a)(4) [Doc. No. 1] (the "Complaint")
- 2) Motion to Dismiss Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(a)(4) Pursuant to FRBP 12(b)(6) [Doc. No. 11] (the "Motion")
- 3) Notice of the Motion [Doc. No. 12]
- 4) Opposition to Motion to Dismiss Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(a)(4) [Doc. No. 18]
- 5) Opposition to Motion to Dismiss Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(a)(4) (Revised) [Doc. No. 19] (the "Opposition")
- 6) Reply to Opposition by Langlois Family Law, APC to Motion to Dismiss Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(a)(4)

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Pursuant to FRBP 12(b)(6) [Doc. No. 20] (the "Reply")

- 7) Evidentiary Objections in Support of Reply to Opposition by Langlois Family Law, APC to Motion [Doc. No. 21]

**I. Facts and Summary of Pleadings**

On May 1, 2020, Langlois Family Law, APC ("Plaintiff") filed a *Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C., Section 727(a)(4)* [Doc. No. 1] (the "Complaint") against Steve Lewis ("Defendant"). The Plaintiff holds a claim against the Defendant in the approximate amount of \$152,540.75. The Defendant's indebtedness to the Plaintiff arises from outstanding legal fees incurred in a marital dissolution proceeding, which ultimately became the subject of arbitration.

On its face, the instant Complaint seeks the denial of the Defendant's discharge on § 727(a)(4) grounds only. The Defendant moves to dismiss the Complaint, for failure to state a claim upon which relief can be granted. Plaintiff opposes the Motion.

**Summary of the Complaint's Allegations**

The allegations in the Complaint may be summarized as follows:

On or about January 13, 2016, the Defendant retained Plaintiff's legal services in connection with dissolution proceedings involving the Defendant's spouse. Complaint at ¶ 7. The Defendant's inability to tender payment for Plaintiff's services resulted in the parties attending an arbitration proceeding. Complaint at ¶ 8. The arbitration concluded in Plaintiff securing a favorable judgment against Defendant in the sum of \$152,540.75 (the "Judgment") on or about July 30, 2019. *Id.* at ¶ 9. Following the Defendant's continued failure to satisfy the Judgment, the Plaintiff pursued and prevailed on a petition to confirm the arbitration award before the Los Angeles division of the Superior Court of the State of California on or about December 11, 2019. *Id.* at ¶¶ 10, 11. Soon after the state court rendered its decision, the Defendant commenced this voluntary chapter 7 case, allegedly "in order to fraudulently discharge the entire \$152,541.00 debt owed to Plaintiff." *Id.* at ¶ 12. Pursuant to § 727(a)(4)(A), the Defendant is not entitled to a discharge. *Id.* at ¶ 19. The Defendant "knowingly and fraudulently" asserted the following false statements in his commencement documents:

- The Defendant stated in his petition that he earns monthly gross wages of \$25,000. *Id.* at ¶ 16. The Defendant's gross wages and bonuses "are much greater." *Id.*



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- The Defendant stated in his petition that his IRS expense allowances total \$19,604.90 per month. *Id.* at ¶ 17. However, the Defendant has improperly made "thousands of dollars of expenses," in contravention of IRS expense allowances. *Id.*
- In addition, the Defendant's excessive tax withholdings have generated a non-exempt tax refund. *Id.*
- The Defendant stated in his petition that his monthly disposable income is \$5,374.10. *Id.* at ¶ 18. However, the Defendant's disposable income each month "is much greater." *Id.*

In addition to seeking an order denying the Defendant's discharge, the prayer for relief requests a judgment of non-dischargeability with respect to the Judgment, the accompanying rate of interest, and attorney's fees and costs. *See* Complaint at 4, ¶¶ 1-5.

**Summary of the Motion to Dismiss**

The Defendant moves to dismiss the Complaint under Civil Rule 12(b)(6). The salient points, arguments, and representations made in the Motion are summarized as follows:

The Complaint pleads vague and conclusory allegations that fail to support the basis of Defendant's purported knowing and fraudulent conduct. "A plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions and a formulaic recitation of the elements of a cause of action will not do." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal citations omitted). The Complaint's assertions concerning the misrepresentation of Defendant's finances "lack any reasonable degree of specificity." For example, the Plaintiff alleges that Defendant's gross wages and bonuses are greatly overstated, without supplying any specifics. The same is true with respect to the purported misrepresentation of IRS expense allowances and monthly disposable income. Plaintiff should specifically plead any facts supporting Defendant's fraudulent conduct, if any, to afford Defendant the opportunity to challenge such allegations. Notably, before the filing of the Complaint, the Defendant provided Plaintiff with documentation in response to an informal discovery request.

The Complaint is further vague and ambiguous, to the extent that the Plaintiff seeks a non-dischargeability judgment in the prayer section. Elsewhere, the Complaint asserts that Defendant filed for bankruptcy to "fraudulently" discharge the debt owed to Plaintiff. This language seemingly implicates a claim for relief under § 523(a). However,

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if Plaintiff intended to raise a § 523(a) claim, such claim is also improperly pled insofar as the Complaint does not allege fraudulent intent with particularity. Fed. R. Bankr. P. 7009 requires plaintiffs to plead circumstances constituting fraudulent conduct with particularity. Furthermore, a § 523(a) claim is arguably time-barred, given that the deadline to challenge the dischargeability of the Judgment lapsed on May 8, 2020. Therefore, any claim or allegation constituting a § 523(a) claim should be stricken pursuant to Fed. R. Bankr. P. 7012(f).

The Defendant further submitted an amended Chapter 7 Means Test on May 14, 2020 [Doc. No. 18], and, to this day, no party at interest has attempted to dismiss the bankruptcy case under § 707(b).

In sum, the Defendant asks for the dismissal of the Complaint with prejudice. In the alternative, the Court should construe the Motion as a request for a more definite statement and direct the Plaintiff to clarify the allegations raised in the Complaint.

**Summary of the Opposition**

On June 23, 2020, the Plaintiff filed the Opposition, which is supported by the declaration of Joseph Langlois, the Plaintiff's owner (the "Langlois Declaration"). In support of the Opposition, the Plaintiff makes the following arguments and representations:

Pursuant to Civil Rule 8, the Complaint pleads enough facts to indicate that Plaintiff is entitled to the relief requested. It is not necessary for the Complaint to provide detailed allegations at this stage. However, if the Court so determines, the Plaintiff is ready to correct any deficiencies in an amended pleading. Pursuant to the opinion in *Conley v. Gibson*, a complaint should not be dismissed for failure to state a claim, unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim. 355 U.S. 41, 45-46. Here, based on the Langlois Declaration, the Plaintiff will be able to prove through admissible evidence that Defendant improperly misrepresented his financial information. The Plaintiff could not plead facts contained in the records previously made available, as Plaintiff clearly indicated that the use of such documentation was limited to settlement purposes. However, if given an opportunity to conduct discovery, the Complaint will be supported by admissible evidence. Additionally, the Plaintiff should be allowed to investigate the "apparent" inconsistencies in Defendant's commencement documents, as well as the basis for the petition amendments on May 18.

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**Summary of the Reply**

In reply, the Defendant's principal arguments and representations may be summarized as follows:

The Opposition misstates the prevailing pleading standard set forth in *Twombly*, in its argument that the Complaint satisfies Civil Rule 8. Although the Plaintiff has had ample opportunity to collect evidence—by attending the § 341(a) meeting of creditors, and despite having had the ability to consult with the chapter 7 trustee or file a 2004(a) motion—the Complaint fails to advance little more than labels and conclusions. The Langlois Declaration is a list of self-serving, unsupported allegations that could have been properly alleged in the Complaint, but at this juncture, it cannot serve as the basis for curing the pleading defects. According to *Schneider v. California Dept. of Corrections*, in adjudicating a motion to dismiss, courts cannot consider "new facts" alleged in the plaintiff's opposition papers. 151 F.3d 1194 (9th Cir. 1998). Hence, the Langlois Declaration consists of extraneous assertions which must be disregarded in a motion to dismiss inquiry. To that extent, the Defendant has submitted a supplemental pleading enumerating various evidentiary objections against the Langlois Declaration.

The Ninth Circuit in *Somers v. Apple, Inc.* stated that the availability of discovery mechanisms requires the plaintiff to "first produce a complaint that passes the plausibility test." 729 F.3d 953, 960 (9th Cir. 2013). Therefore, the argument that additional discovery will yield admissible evidence supporting the Complaint cannot serve as grounds for circumventing dismissal. Separately, if granted leave to amend, the Plaintiff should set forth allegations that unambiguously indicates to the Defendant whether relief under § 523(a) will be sought.

In sum, the Defendant reiterates that the Complaint must be dismissed with prejudice, or in the alternative, the Complaint must be amended.

**II. Findings and Conclusions**

Civil Rule 12(b)(6), applicable herein through Fed. R. Bankr. P. 7012(b), provides that the dismissal of a complaint is proper if it "fails to state a claim upon which relief can be granted." Under this standard, "[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.' A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal

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citations omitted). To state a plausible claim for relief, a complaint must satisfy two working principles:

First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitations of the elements of a cause of action, supported by mere conclusory statements, do not suffice.... Second, only a complaint that states a plausible claim for relief survives a motion to dismiss. Determining whether a complaint states a plausible claim for relief will ... be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not "show[n]"— "that the pleader is entitled to relief."

*Id.* (citing Civil Rule 8(a)(2)).

Although the pleading standard Civil Rule 8 announces “does not require ‘detailed factual allegations,’ ... it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.... A pleading that offers ‘labels and conclusions’ or a ‘formulaic recitation of the elements of a cause of action will not do.’ Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

**A. In Determining the Motion, the Court Declines to Consider Matters Extraneous to the Complaint**

In support of their respective briefs, both the Plaintiff and the Defendant present matters extraneous to the Complaint. Accordingly, the Plaintiff has presented (1) the Langlois Declaration and (2) a portion of a letter from Defendant’s counsel. The Defendant requests that the Court rule on various evidentiary objections directed at Plaintiff’s materials.

The purpose of a motion to dismiss, under Civil Rule 12(b)(6), is to test the legal sufficiency of a complaint. *Navarro v. Block*, 250 F.2d 729, 732 (9th Cir. 2001). Generally, a court may not consider any materials extraneous to the complaint or contained in supporting exhibits attached thereto when ruling on a Rule 12(b)(6) motion. *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1555 n.19 (9th Cir. 1990). An exception to this rule, commonly referred to as the “incorporation by reference

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doctrine” permits courts to take notice of documents “whose contents are alleged in a complaint and whose authenticity no party questions.” *Knievel v. ESPN*, 393 F.3d 1068, 1076 (9th Cir. 2005).

Both the Langlois Declaration and the letter segment identified as “Exhibit A” go beyond the four corners of the Complaint, consisting of extraneous matters that cannot properly be the subject of judicial notice. These materials implicate matters that are the source of dispute and are otherwise irrelevant to the legal issue at hand. *See, e.g.*, Langlois Decl. at ¶ 7 (“The defendant has carefully planned to file the instant Chapter 7 bankruptcy petition. Defendant is a 3-time bankruptcy filer.”); Reply at 5 (“the Langlois Declaration is an improper effort to poison the record, by making unsupported extraneous and unsupported comments...”). These assertions provide no assistance to the Court in determining whether this Complaint sufficiently states a claim for relief. For similar reasons, the Defendant’s evidentiary objections are improperly raised in a Rule 12(b)(6) motion to dismiss. The Court will not render a determination as to these evidentiary objections. Doing so will require that the Court make findings of fact, an endeavor lying outside the scope of the present legal inquiry, i.e., to test the legal sufficiency of the Complaint. While the Court does not consider the particular facts alleged for the first time in the Langlois Declaration, such declaration is construed as a proffer that the Complaint could have alleged additional facts, had it been artfully drafted from the outset. Therefore, the Court declines to rule on the Defendant’s evidentiary objections at this stage of litigation.

**B. The Complaint Fails to State a Claim for Relief Under § 724(a)(4)**

The sole cause of action in the Complaint alleges that the Defendant’s discharge should be denied under § 727(a)(4)(A).

Section 727(a)(4)(A) provides that a debtor is not entitled to a discharge if “the debtor knowingly and fraudulently, in or in connection with the case made a false oath or account ....”

To state a claim under § 727(a)(4)(A), a complaint must contain factual allegations showing that:

- 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

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- 4) the oath was made fraudulently.

*Retz v. Samson (In re Retz)*, 606 F.3d 1189, 1197 (9th Cir. 2010). "A false oath may involve a false statement or omission in the debtor's schedules." *Fogal Legware of Switzerland, Inc. v. Wills (In re Wills)*, 243 B.R. 58, 62 (B.A.P. 9th Cir. 1999).

"A fact is material 'if it bears a relationship to the debtor's business transactions or estate, or concerns the discovery of assets, business dealings, or the existence and disposition of the debtor's property.' An omission or misstatement that 'detrimentally affects administration of the estate is material.'" *Retz*, 606 F.3d at 1198 (internal citations omitted). A false statement is made "knowingly" if the debtor "acts deliberately and consciously." *Id.* A false statement is made "fraudulently" if the debtor makes the statement "with the intention and purpose of deceiving creditors." *Id.* "Reckless indifference or disregard for the truth may be circumstantial evidence of intent, but it is not sufficient, alone, to constitute fraudulent intent." *Khalil v. Developers Sur. & Indem. Co.*, 379 B.R. 163, 172 (B.A.P. 9th Cir. 2007).

Fraud is an element of a claim brought forth under § 727(a)(4)(A); therefore, a plaintiff must satisfy the heightened pleading standard stated in Civil Rule 9(b). *In re Eden*, 584 B.R. 795, 806 (Bankr. N.D. Ga. 2018); *see Hunt v. Steffensen (In re Steffensen)*, 511 B.R. 149, 160 (Bankr. D. Utah 2014) ("because one element of a § 727(a)(4) claim is fraudulent intent, the Plaintiff's complaint must meet the particularity requirements of Rule 9(b)"). To plead fraud with particularity, a plaintiff must identify "the time, place, and contents of the false representation, the identity of the party making the false statements and the consequences thereof." *In re Steffensen*, 511 B.R. at 160 (internal quotes omitted). Civil Rule 9(b) also requires that the plaintiff allege facts "expla[ining]...why the disputed statement was untrue or misleading when made." *Yourish v. California Amplifier*, 191 F.3d 983, 993 (9th Cir. 1999).

The Complaint fails to allege each of the three false statements purportedly made by the Defendant with the requisite level of particularity. First, the Complaint alleges that the Defendant understated his gross wages, which total a "much greater" amount. Complaint at ¶ 16. While the Plaintiff pleads the basic facts of who, what, where, and when, these conclusory statements, without more, fail to particularly state why the representation was misleading when it was made. The Complaint does not contain facts supporting the conclusory statement that the Defendant understated his gross wages with the "intention and purpose of deceiving creditors." The Complaint is further devoid of

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any other facts that would enable the Court to reasonably infer actual deceit, or even reckless indifference to the veracity of Defendant's financial information.

Additionally, the Complaint fails to allege facts supporting that the alleged misstatement is material. The Complaint does not allege an estimate of the Defendant's actual earnings. Even if it is true that the Defendant's gross wages are higher than as represented, the Complaint's threadbare allegations do not indicate the misstatement was material because it "detrimentally affects the administration of the estate." Absent a showing of materiality, and without particularly pleading the element of fraud, Plaintiff cannot state a claim under § 727(a)(4)(A). For the reasons discussed above, the allegations set forth in ¶¶ 17 and 18—respecting misstatements of Defendant's IRS expense allowances and monthly disposable income—also fail to state a claim under § 727(a)(4)(A). These allegations suffer from the same defects as the allegation in ¶ 16, insofar as they insufficiently fail to plead materiality and fraudulent intent. **[Note 1]**.

As discussed above, the Langlois Declaration indicates that the Plaintiff is capable of supplementing the threadbare allegations pled in the Complaint. *United States ex rel. Lee v. SmithKline Beecham, Inc.*, 245 F.3d 1048, 1052 (9th Cir. 2001) ("leave to amend should be granted unless the district court determines that the pleading could not possibly be cured by the allegation of other facts.") (internal quote omitted). Therefore, amendment of the Complaint would not be futile. In adjudicating the Motion, the Court proffers no opinion as to whether the allegations asserted in the Langlois Declaration, without more, can cure the Complaint's pleading defects. The Plaintiff is strongly advised against relegating facts central to this dispute to pleadings extraneous to the four corners of its amended complaint.

The Plaintiff shall file a First Amended Complaint by no later than **July 21, 2020**. The Pretrial Status Conference, set for July 14, 2020, at 10:00 a.m., is VACATED. Upon the filing of the First Amended Complaint, the Clerk of the Court will issue a Summons and Scheduling Order setting forth updated dates governing this action, including the date of a continued Pretrial Status Conference.

### **III. Conclusion**

Based upon the foregoing, the Complaint is dismissed, but Defendant is given leave to amend. A First Amended Complaint shall be filed by no later than **July 21, 2020**. All other relief requested and not discussed above is denied **[Note 2]**.

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The Court will prepare the order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** For instance, the Complaint completely neglects to state even the most basic facts surrounding the alleged excessive withholding practice: whether there is a specific misleading statement or omission in the petition, what makes such statement or omission misleading, and whether the misstatement or omission is material, *inter alia*. As pled, it is unclear if the Plaintiff alleges whether the Defendant has generated an income tax refund that he has not disclosed, or if the tax amount computed in the Chapter 7 Means Test is inaccurate. These are all background facts that should have been alleged in the Complaint from the outset.

**Note 2:** The Court declines to reach a determination with respect to the Defendant's request to strike allegations implicating a § 523(a) claim. Once the First Amended Complaint has been entered, the Defendant may renew his request, if warranted.

**Party Information**

**Debtor(s):**

Steve Lewis

Represented By  
Allan D Sarver

**Defendant(s):**

STEVE LEWIS

Represented By  
Allan D Sarver

**Plaintiff(s):**

LANGLOIS FAMILY LAW APC

Represented By  
Ray B Bowen Jr



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**Trustee(s):**

Elissa Miller (TR)

Pro Se

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**#1.00** Final Hearing  
RE: [4741] Motion to Reject Lease or Executory Contract /Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with SEIU; Declarations Of Richard G. Adcock and Steven Sharrer in Support Thereof

FR. 6-3-20; 6-10-20

Docket 4741

**Tentative Ruling:**

7/7/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Rejection Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Papers Filed in Connection with Initial Hearing:
  - a) Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with SEIU [Doc. No. 4741] (the "Motion")
    - i) Certificate of Service [Doc. No. 4803]
  - b) Order Setting Briefing Schedule on Section 1113 Motions [Doc. No. 4753]
    - i) Stipulation Continuing Hearing and Deadlines Regarding Debtors' Motions Under Section 1113 of the Bankruptcy Code [Doc. No. 4815]
    - ii) Order Granting Stipulation Continuing Hearing and Deadlines Regarding Debtors' Motions Under Section 1113 of the Bankruptcy Code [Doc. No. 4819]
  - c) SEIU-UHW's Opposition to Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4806]
    - i) Declaration of Caitlin E. Gray in Opposition to Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4807]

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- ii) Stipulation Extending Deadline for SEIU-UHW Re Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4797]
- iii) Order Approving Stipulation Extending Deadline for SEIU-UHW Re Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4816]
- d) Notice of Filing of Declarations Pursuant to Court's Scheduling Order in Connection with Debtors Motion to Reject Collective Bargaining Agreement with UNAC Under § 1113 of the Bankruptcy Code [Doc. No. 4844]
- 2) Papers Filed in Connection with Final Hearing:
  - a) Debtors' Omnibus Reply and Final Brief in Support of Motions Under § 1113 of the Bankruptcy Code Regarding St. Francis Medical Center [Doc. No. 4987]
  - b) Prime Healthcare's Statement Regarding the Stipulations Between Debtors and (1) UNAC and (2) SEIU, Attached as Exhibits A and B to the Debtors' Omnibus Reply in Support of § 1113 Motions Regarding St. Francis Medical Center [Doc. No. 4996]
  - c) SEIU-UHW's Final Brief in Opposition to Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4986]

## **I. Facts and Summary of Pleadings**

Debtors move for entry of an order authorizing them to reject a collective bargaining agreement (the "Existing CBA") between St. Francis Medical Center ("St. Francis") and Service Employees International Union–United Healthcare Workers West ("SEIU"). *See* Doc. No. 4741 (the "Rejection Motion"). SEIU opposes the Rejection Motion.

### **A. Background**

#### **1. The APA Between the Debtors and Prime**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

On February 26, 2020, the Court entered an *Order (1) Approving Auction Sale Format and Bidding Procedures; (2) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (3) Approving Form of Notice to be Provided to Interested Parties; (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases* [Doc. No. 4165] (the "Bidding Procedures Order"). The Bidding Procedures Order established

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procedures governing the auction (the "Auction") of St. Francis.

The Bidding Procedures Order authorized the Debtors to designate a Stalking Horse Bidder without further order of the Court. The Debtors designated Prime as the Stalking Horse Bidder. The Debtors received bids from potential purchasers, but after consulting with their advisors and the Consultation Parties (as defined in the Bidding Procedures Order), determined that such bids did not constitute Qualified Bids. The Debtors selected Prime as the Winning Bidder and did not conduct the Auction.

On April 9, 2020, the Court entered an order authorizing the Debtors to sell St. Francis to Prime. *See* Doc. No. 4511 (the "Sale Order"). Material terms of the Asset Purchase Agreement (the "APA") as they pertain to the Existing CBA are as follows:

4.9. Contract With Unions. (a) ... The applicable Sellers and Purchaser shall each participate in all negotiations related to the potential modification and assignment of specific Seller's collective bargaining agreements to Purchaser. The applicable Sellers shall use commercially reasonable efforts to initiate discussions with Purchaser and unions and conduct discussions to renegotiate each collective bargaining agreement currently in effect with each applicable union. The applicable Sellers will not unreasonably withhold, condition or delay Bankruptcy Court approval of any successfully renegotiated collective bargaining agreement. The Parties recognize that Seller's failure to conclude a successor collective bargaining agreement shall not be a breach of Sellers' obligation under this Agreement or otherwise excuse Purchaser's obligations under this Agreement.

(b) On or before the date that is thirty (30) days after the Sale Order Date, the negotiations pursuant to Section 4.9(a) shall have resulted in each, such labor unions, agreeing to either (i) either modification of the St. Francis related collective bargaining agreements under terms that are to be substantially consistent with the Purchaser's existing and most current collective bargaining agreements with each such respective labor union, and that settle all liabilities under the existing Seller collective bargaining agreements that shall be assigned to Purchaser, provided that there are shall be no cure obligations to the Sellers or (ii) enter into new collective bargaining agreements that are substantially consistent with the Purchaser's existing collective bargaining agreements with each such respective labor union; provided, that if Purchaser and each labor union have not entered into such agreements described in (i) or (ii) above, or have entered into an agreement under (ii), then Sellers shall have the absolute

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right to file or take any other action to reject and terminate any such collective bargaining agreement and, in such event, the Bankruptcy Court shall have entered an order granting Sellers' requested rejection of such collective bargaining agreement prior to the Closing Date.

APA at § 4.9.

If Prime and SEIU have not consensually entered into a collective bargaining agreement consistent with § 4.9, Prime is not required to close the sale unless the Debtors have obtained an order authorizing rejection of the Existing CBA:

Sellers shall have satisfied, in all material respects, their obligations set forth in Section 4.9(b). For the avoidance of doubt, in the event that Purchaser and each labor union has not entered into an agreement described in Section 4.9(b)(i) or (ii), then material satisfaction of Section 4.9(b) means that Seller has filed or taken action to reject and terminate any such collective bargaining agreement and that the Bankruptcy Court has entered an order granting Seller's requested rejection of such collective bargaining agreement prior to the Closing Date.

APA at § 8.7.

Either the Debtors or Prime may terminate the APA if the sale has not closed on or before September 1, 2020 (the "Termination Date"), except that the Termination Date shall be December 31, 2020 if the only condition to closing that has not been satisfied is the Attorney General's consent to the sale upon conditions consistent with those that Prime has agreed to accept. *Id.* at § 9.1(i).

2. The Initial Hearing on the Rejection Motion

On June 10, 2020, the Court conducted an initial hearing on the Rejection Motion (the "Initial Hearing"). At the Initial Hearing, the Court found "that consensual resolution of the § 1113 issues remains possible," and set forth "guidance intended to facilitate and channel further negotiations." *See* Doc. No. 4857 at 1.

The guidance included the Court's views on the factors set forth in *In re American Provision Co.*, 44 B.R. 907 (Bankr. D. Minn. 1984). With respect to *American Provision* Factor 3, the Court found that the phrase "necessary to permit the reorganization of the debtor" was best interpreted to mean "necessary to permit the Debtors to confirm a liquidating plan." *Id.* at 9-10. Finding that the closing of the sale of St. Francis to Prime was essential to the Debtors' ability to confirm a liquidating plan, the Court concluded that to satisfy Factor 3, the Debtors were required to demonstrate

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that rejection of the Existing CBA was a prerequisite to the closing of the sale. *Id.*

The Court found that Factor 3 had not yet been satisfied because it remained possible for SEIU and Prime to agree upon terms of a Successor CBA, which would make it unnecessary for the Debtors to obtain an order rejecting the Existing CBA. *Id.* at 10.

The Court rejected SEIU's argument that the Debtors could not establish that they had met and conferred in good faith as a result of language in the APA:

SEIU asserts that by the time the Debtors commenced negotiations, the language in the APA made it foregoing conclusion that Prime would not assume the CBA. SEIU relies upon *In re Lady H Coal Co., Inc.*, 193 B.R. 233, 242 (Bankr. S.D.W. Va. 1996) for the proposition "that a debtor has a duty under § 1113 to not obligate itself prior to negotiations with its union employees, which would likely preclude reaching a compromise." The *Lady H* court held that "the Debtors could not have bargained in good faith as the Debtors were, prior to any negotiations with the union, locked into at an agreement where the purchaser was not assuming the [CBA]." *Id.*

SEIU's reliance upon *Lady H* is misplaced. In *Lady H*, the debtor's CEO unilaterally obtained a broker to market the assets at issue, in violation of § 327. As a result of this violation, the unions received no notice of the marketing of the assets. *Lady H*, 193 B.R. at 242. The lack of notice deprived the unions of the "opportunity to participate in whatever process a debtor engages in to find a suitable buyer." *Id.* Here, by contrast, the Debtors have stated their intent to sell the St. Francis from the inception of the case. The Debtors fully complied with the requirements of § 327 when retaining Cain to market the St. Francis.

In addition, the debtor in *Lady H* did not pursue a possible sale to another buyer who was willing to assume the union's CBA. *Id.* Instead, the debtor obligated itself to a buyer that wanted to reject the CBA, primarily because that buyer had agreed to employ the debtor's officers at inflated salaries. *Id.* In contrast to the facts of *Lady H*, the record shows that the Debtors executed the APA with Prime to maximize the proceeds available to the estate, not to enrich insiders, and that the Debtors aggressively marketed St. Louise. The entire purpose of the APA with Prime was to produce additional favorable bids, some of which might include assumption of the CBAs. The Debtors were not "locked in" under the APA; the APA was merely the first step in a thorough marketing process. The fact that no other bidders emerged does not indicate that there were problems with the APA; it instead demonstrates that no buyers exist who are willing to acquire St. Louise subject to the CBA.

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The only temporal requirement imposed by the statute regarding the Debtors' bargaining obligations is that the bargaining commence prior to the filing of a motion seeking relief under § 1113. § 1113(b)(1)(A). Here, the Debtors fulfilled this requirement by meeting with SEIU three times prior to the filing of the Motion.

The decision in *Local 211 v. Family Snacks, Inc., Official Unsecured Creditors' Comm. (In re Family Snacks, Inc.)*, 257 B.R. 884, 897 (B.A.P. 8th Cir. 2001) shows that the Debtors are not obligated to commence bargaining at the inception of the case. Similar to this case, in *Family Snacks* the debtor commenced negotiations only after it had sold its assets. The *Family Snacks* court held that the debtor's decision to not commence negotiations until after the asset sale did not automatically bar the debtor from obtaining relief under § 1113. *Family Snacks*, 257 B.R. at 895–96.

Ruling After Initial Hearing [Doc. No. 4857] at 12-13.

The Court set this final hearing on the Rejection Motion, and directed the parties to file, no later than July 1, 2020, (a) a stipulation setting forth the parties' disputes regarding whether complete and reliable information had been provided and (b) final briefs accompanied by appropriate evidence setting forth the parties' positions on those issues that remain in dispute. *See* Doc. No. 4862.

3. The Debtors' Proposal

The Debtors' most recent proposal to SEIU is as follows:

- 1) Providing SEIU consents to rejection of the Existing CBA prior to the Final Hearing, SEIU's employees who are not offered employment by Prime shall receive an allowed claim for severance calculated under the accrual method (the "Severance Benefit"). Amounts of the Severance Benefit earned on and after the Petition Date through the date of the closing of the sale of St. Francis will receive administrative status. Amounts earned after March 4, 2018 and through the day prior to the Petition Date will receive priority claim status up to any remaining balance under § 507(a)(4), up to a maximum of \$12,850 per employee, with any excess granted general unsecured status. Amounts earned prior to March 4, 2018 will receive general unsecured status.
- 2) If SEIU does not consent to rejection of the Existing CBA prior to the Final Hearing, the Debtors will withdraw the Severance Benefit.

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**B. Summary of Papers Filed in Connection with the Final Hearing**

SEIU asserts that the Rejection Motion should be denied for the following reasons:

- 1) SEIU has not been provided the information necessary to evaluate the proposal. Prime has refused to provide SEIU an estimate of the percentage of SEIU-represented workers that will be hired by Prime. Although Prime has committed to honor the terms of the APA and hire “substantially all” employees, it has provided no clarity as to how it interprets this provision and has not provided even a “soft number” of employees that would be re-hired. Verity has not responded to SEIU’s request for information about whether or how Verity will enforce the APA’s provision requiring Prime to hire “substantially all” of the workforce.
- 2) SEIU has not been provided financial statements using Generally Accepted Accounting Principles. This is significant because the conclusions about the profitability of St. Francis based on the monthly operating reports presented by Prime is substantially different from the conclusions in the Debtors’ own analysis of the same numbers, and both still fall far short of the conclusions presented to Cain Brothers to potential bidders.
- 3) The Debtors have not demonstrated that rejection of the severance obligations under the Existing CBA is necessary to enable them to confirm a liquidating plan. Debtors have stated that rejection of the severance obligations is necessary because their assets are “very limited,” but this assertion has not been substantiated by objective quantitative analysis. The fact that the Debtors have offered a Severance Benefit if SEIU consents to rejection shows that the Debtors have the ability to pay severance to SEIU-represented employees who are not re-hired by Prime.

Debtors make the following arguments in support of the Rejection Motion:

- 1) SEIU has waived its ability to contest the sufficiency of the information provided by the Debtors. On June 17, 2020, the Debtors asked SEIU to identify any deficiencies with the information produced. SEIU did not do so until the morning of July 1, 2020—the same day that the parties were required to submit the Discovery Stipulation.
- 2) There is no merit to SEIU’s contention that it has not been provided sufficient information regarding the meaning of the APA’s provision requiring Prime to hire “substantially all” employees at St. Francis. The Debtors have supplied



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SEIU with precedent indicating that “substantially all” means “less than all, but not much less.” *Cont'l Can Co., Inc. v. Chicago Truck Drivers, Helpers & Warehouse Workers Union (Indep.) Pension Fund*, 916 F.2d 1154 (7th Cir. 1990). The Debtors are not required to become judge and jury as to the exact amount that this contract term means.

## **II. Findings and Conclusions**

Section 1113 provides:

(a) The debtor in possession, or the trustee if one has been appointed under the provisions of this chapter, ... may assume or reject a collective bargaining agreement only in accordance with the provisions of this section.

(b)

(1) Subsequent to filing a petition and prior to filing an application seeking rejection of a collective bargaining agreement, the debtor in possession or trustee (hereinafter in this section "trustee" shall include a debtor in possession), shall—

(A) make a proposal to the authorized representative of the employees covered by such agreement, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the employee benefits and protections that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

(B) provide, subject to subsection (d)(3), the representative of the employees with such relevant information as is necessary to evaluate the proposal.

(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1) and ending on the date of the hearing provided for in subsection (d)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.

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(c) The court shall approve an application for rejection of a collective bargaining agreement only if the court finds that—

- (1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (b)(1);
- (2) the authorized representative of the employees has refused to accept such proposal without good cause; and
- (3) the balance of the equities clearly favors rejection of such agreement.

"Bankruptcy cases generally approach this complicated statute by breaking the statute into a nine part test" first set forth in *In re Am. Provision Co.*, 44 B.R. 907, 909 (Bankr. D. Minn. 1984). *See In re Karykeion, Inc.*, 435 B.R. 663, 677 (Bankr. C.D. Cal. 2010); *see also In re Family Snacks, Inc.*, 257 B.R. 884, 892 (B.A.P. 8th Cir. 2001) ("Virtually every court that is faced with the issue of whether a Chapter 11 debtor may reject its collective bargaining agreement utilizes a nine-part test that was first set down by the bankruptcy court in *In re American Provision Co.*"). The *American Provision* factors are as follows:

- 1) The debtor in possession must make a proposal to the Union to modify the collective bargaining agreement.
- 2) The proposal must be based on the most complete and reliable information available at the time of the proposal.
- 3) The proposed modifications must be necessary to permit the reorganization of the debtor.
- 4) The proposed modifications must assure that all creditors, the debtor and all of the affected parties are treated fairly and equitably.
- 5) The debtor must provide to the Union such relevant information as is necessary to evaluate the proposal.
- 6) Between the time of the making of the proposal and the time of the hearing on approval of the rejection of the existing collective bargaining agreement, the debtor must meet at reasonable times with the Union.
- 7) At the meetings the debtor must confer in good faith in attempting to reach mutually satisfactory modifications of the collective bargaining agreement.
- 8) The Union must have refused to accept the proposal without good cause.
- 9) The balance of the equities must clearly favor rejection of the collective

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*American Provision*, 44 B.R. at 909.

Courts apply the *American Provision* factors even where a debtor is liquidating its assets and does not intend to continue in business after emerging from bankruptcy. Courts reason that "reorganization," as used in § 1113(b)(1)(A), is "generally understood to include all types of debt adjustment, including a sale of assets, piecemeal or on a going concern basis, under § 363 followed by a plan of reorganization which distributes the proceeds of the sale to creditors in accordance with the Bankruptcy Code's priority scheme." *Family Snacks*, 257 B.R. at 895. Some courts have held that where, as here, the Debtors are liquidating their assets, the phrase "necessary to permit the reorganization of the debtor" means "necessary to achieve a sale under § 363 of the Bankruptcy Code." *Alpha Nat. Res., Inc.*, 552 B.R. 314, 333 (Bankr. E.D. Va. 2016); see also *Walter Energy*, 542 B.R. at 890 (requiring that the debtor's proposal "be necessary to permit ... those modifications necessary to consummate a going-concern sale"); *In re Karykeion, Inc.*, 435 B.R. 663, 679 (Bankr. C.D. Cal. 2010) (finding that the debtor had proven that rejection was necessary when the closing of a § 363 sale was contingent on rejection of a collective bargaining agreement). Other courts have concluded that in a liquidating case, the phrase "necessary to permit reorganization of the debtor" means "necessary to accommodate confirmation of a Chapter 11 plan." *Family Snacks*, 257 B.R. at 895.

**A. Factors 2 and 5—Complete Information**

Factor 2 requires that the Debtors' proposal be based on the most complete and reliable information available at the time the proposal is made. Factor 5 requires that the Debtors provide UNAC with "such relevant information as is necessary to evaluate the proposal." For both factors, a debtor "must gather the 'most complete information at the time and ... base its proposal on the information it considers reliable,' excluding 'hopeful wishes, mere possibilities and speculation.' 'The breadth and depth of the requisite information will vary with the circumstances, including the size and complicity of the debtor's business and work force; the complexity of the wage and benefit structure under the collective bargaining agreement; and the extent and severity of modifications the debtor is proposing.'" *In re Walter Energy, Inc.*, 542 B.R. 859, 886 (Bankr. N.D. Ala. 2015), *aff'd sub nom. United Mine Workers of Am. 1974 Pension Plan & Tr. v. Walter Energy, Inc.*, 579 B.R. 603 (N.D. Ala. 2016), *aff'd sub nom. In re Walter Energy, Inc.*, 911 F.3d 1121 (11th Cir. 2018) (internal citations omitted).

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1. The Objections of SEIU Set Forth in the Discovery Stipulation are Overruled

a. Workforce Transition Information

SEIU asserts that Prime has failed to provide information about how many members of SEIU would be hired by Prime, how hiring decisions would be made, whether service lines would be cut, and whether staffing levels would be affected by implementation of the Epiq system. SEIU contends that the Debtors have failed to provide SEIU with information on what actions, if any, the Debtors will take to enforce the APA's provision requiring Prime to hire "substantially all" of those employed at St. Francis.

SEIU's objection is overruled. To the extent that SEIU's request is directed toward Prime, the Debtors are not required to provide such information to satisfy the requirements of § 1113. *See Walter Energy*, 542 B.R. at 896 ("To satisfy the second and fifth procedural requirements, a debtor need only provide that information that is within its power to provide.").

Nor are the Debtors required to provide SEIU with information about how they might respond with respect to the enforcement of the APA's hiring provisions. The information regarding a hypothetical situation that SEIU requests is not necessary for SEIU to understand the Debtors' proposal—which provides that the Existing CBA will be rejected because the Debtors will no longer operate St. Francis after the closing of the sale and therefore will no longer need the Existing CBA. In addition, the Debtors have provided SEIU with authority explaining that in the APA, the term "substantially all" means "less than all, but not much less." *Cont'l Can Co., Inc. v. Chicago Truck Drivers, Helpers & Warehouse Workers Union (Indep.) Pension Fund*, 916 F.2d 1154 (7th Cir. 1990).

b. Information Regarding the Necessity of Rejecting All Severance Obligations

SEIU contends that the Debtors have not provided sufficient quantitative analysis to substantiate the necessity of rejecting all severance obligations under the Existing CBA.

The objection is overruled. SEIU has been provided updates from advisors to the Official Committee of Unsecured Creditors (the "Committee"), including a June 2020 estate recovery analysis. This analysis estimated that approximately \$8 million would be available to general unsecured creditors, a small recovery in a case of this size. The recovery analysis sufficiently substantiates the Debtors' assertion that rejection of the severance obligations is necessary given the Debtors' limited resources.

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c. Information About the Justification for Prime's Proposals

SEIU asserts that Prime has not provided sufficient rationales for various proposals made with respect to the Successor CBA.

SEIU's objection is overruled. The objection is directed toward Prime, not the Debtors. To satisfy the requirements of § 1113, the Debtors are only required to furnish information within their power to provide. *See Walter Energy*, 542 B.R. at 896 ("To satisfy the second and fifth procedural requirements, a debtor need only provide that information that is within its power to provide.").

d. Financial Information Regarding St. Francis' Performance

SEIU asserts that it has not been provided financial statements using GAAP for St. Francis, including accounting notes for revenue recognition.

The objection is overruled. SEIU has waived its ability to object to the adequacy of information provided regarding St. Francis' finances. In an e-mail sent to SEIU on June 17, 2020, the Debtors advised SEIU that monthly operating reports were available that were in accordance with GAAP accounting. SEIU did not contest the adequacy of this response until July 1, 2020—the date upon which the parties were required to file the Discovery Stipulation. If SEIU believed that the information was not adequate, it was required to so advise the Debtors much earlier.

e. Projected Cost Reductions

SEIU asserts that Prime has failed to provide information regarding the cost-savings it expects to achieve as a result of the integration of St. Francis with Prime's other hospital operations.

SEIU's objection is overruled. The objection is directed toward Prime, not the Debtors. To satisfy the requirements of § 1113, the Debtors are required only to furnish information within their power to provide. *See Walter Energy*, 542 B.R. at 896 ("To satisfy the second and fifth procedural requirements, a debtor need only provide that information that is within its power to provide.").

2. The Debtors Have Satisfied Factors 2 and 5

The Court finds that the Debtors have provided SEIU with relevant information necessary to evaluate the proposal. SEIU knows that no buyers other than Prime submitted an offer to purchase St. Francis notwithstanding extensive marketing, and that

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Prime is not willing to acquire St. Francis subject to the Existing CBA. The information that SEIU alleges is deficient goes primarily to negotiations between SEIU and Prime with respect to the Successor CBA—not to the issue of whether SEIU should accept the Debtors' proposal. The Debtors have satisfied Factors 2 and 5.

**B. Factor 4—Fair and Equitable Treatment**

Factor 4 requires that the proposed modifications to the CBAs treat all creditors, the Debtors, and all affected parties fairly and equitably. As explained by the court in *Walter Energy*:

This requirement "spread[s] the burden of saving the company to every constituency while ensuring that all sacrifice to a similar degree." "Courts take a flexible approach in considering what constitutes fair and equitable treatment due to the difficulty in comparing the differing sacrifices of the parties in interest." A debtor can meet the requirement "by showing that its proposal treats the union fairly when compared with the burden imposed on other parties by the debtor's additional cost-cutting measures and the Chapter 11 process generally."

*Walter Energy*, 542 B.R. at 892.

In applying this factor, it is important to emphasize how the Debtors arrived at this point. In early 2014, facing serious operating losses, the Debtors began evaluating strategic alternatives. First Day Decl. of Richard G. Adcock [Doc. No. 8] at ¶ 87. To continue operations until a contemplated sale or recapitalization could close, the Debtors borrowed \$125 million in 2014. *Id.* In 2015, the Debtors entered into a recapitalization transaction with BlueMountain Capital Management LLC ("BlueMountain"). BlueMountain injected \$100 million of capital and arranged for an additional \$160 million of loans. *Id.* at ¶¶ 88–89. Despite BlueMountain's infusion of cash, the health system did not prosper. *Id.* at ¶ 93.

In July 2017, NantWorks, LLC loaned another \$148 million to the Debtors. *Id.* at ¶ 94. Notwithstanding these additional capital infusions and the retention of various consultants and experts to improve operations, losses of approximately \$175 million annually continued to mount. *Id.* at ¶ 95. In sum, prior to seeking bankruptcy relief, the Debtors diligently attempted to put their operations on a sound financial footing, but were unable to do so, in part because of the legacy cost structure imposed by the Existing CBA.

St. Francis has been extensively marketed, but neither Prime nor any other buyer is willing to acquire the hospital subject to the Existing CBA. In June 2018, prior to the

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Petition Date, the Debtors engaged Cain Brothers, a division of KeyBanc Capital Markets (“Cain”) to market all of the Hospitals, including St. Francis. Beginning in July 2018, Cain prepared a Confidential Investment Memorandum (the “CIM”), created an online data room to share information with potential buyers, and contacted over 110 strategic and financial buyers. Subsequent to the Petition Date, Cain continued to market St. Francis.

In connection with a prior sale to Strategic Global Management, Inc. (“SGM”) that did not close (the “SGM Sale”), St. Francis was extensively marketed. Cain notified 90 parties of the sale process, provided access to a data room to sixteen parties who executed non-disclosure agreements (“NDAs”), and remained in contact with potential purchasers to respond to questions and provide information.

After the SGM Sale failed to close, Cain commenced a new marketing process. In December 2019, Cain began making phone calls to parties who had previously expressed interest in acquiring St. Francis. On January 3, 2020, Cain e-mailed all parties who had previously executed NDAs and explained that the Debtors were initiating another marketing process. Ultimately, 61 parties executed NDAs with respect to the renewed marketing process and were granted access to an online data room.

On January 31, 2020, the Debtors received seven Indications of Interest (the “IOIs”) for the potential acquisition of St. Francis. Cain contacted the seven potential purchasers who submitted the IOIs and continued to work with the purchasers to respond to questions and provide information. Ultimately, Prime was the only party who submitted a qualifying bid for St. Francis.

St. Francis cannot continue to operate unless it is purchased by a solvent third-party such as Prime. Further, under the APA Prime is required to hire "substantially all" of St. Francis' current employees. Without rejection of the Existing CBA, St. Francis would not continue to operate as a going concern, and all of the SEIU-represented employees would lose their jobs. Under these circumstances, rejection of the Existing CBA is fair and equitable. The Court notes that sacrifices imposed by these bankruptcies have been widespread. For example, current projections indicate that unsecured creditors will receive a distribution of only 0.5% on account of their claims. The Debtors have satisfied Factor 4.

**C. Factor 3—Necessity of Rejection**

In the context of this case, the term “necessary to permit the reorganization of the debtor” is best interpreted to mean “necessary to permit the Debtors to confirm a liquidating plan.” This interpretation aligns most closely with the manner in which the Debtors are prosecuting this case. From the outset, the Debtors have stated their intent to

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sell their hospitals and use the proceeds from the sales to fund a plan of liquidation. This process is well underway. The sales of O'Connor Hospital, St. Louise Regional Medical Center, and St. Vincent Medical Center have all closed.

The closing of the sale of St. Francis to Prime is essential to the Debtors' ability to confirm a liquidating plan. The failure of the prior sale of St. Francis to Strategic Global Management, Inc. has made confirmation of a liquidating plan more challenging by requiring the Debtors to remain in bankruptcy for far longer than had been anticipated. To satisfy Factor 3, the Debtors must demonstrate that rejection of the Existing CBA is a prerequisite to the closing of the sale.

The Debtors have satisfied this factor. Prime will not acquire St. Francis subject to the Existing CBA. Prime and SEIU have been unable to agree upon a Successor CBA—which would eliminate the need for rejection of the Existing CBA—even though the parties have devoted hundreds of hours to negotiations. The sale to Prime cannot close absent rejection of the Existing CBA. In addition, as set forth in the discussion of Factor 4, no buyer is willing to acquire St. Francis subject to the Existing CBA.

SEIU's assertion that the Debtors have not shown that rejection of the severance benefit is necessary is without merit. Current projections indicate that recoveries to unsecured creditors will be approximately 0.5%, a slim margin for a case of this size. Absent rejection of the severance benefit, the estates could face significant exposure to administrative claims, jeopardizing this inconsequential recovery to unsecured creditors and making it far more difficult for the Debtors to confirm a plan. Further, SEIU's desire to receive administrative status for the severance claims of its members, while understandable, does not by itself justify SEIU's refusal to accept the Debtors' proposal. *See Chicago Const. Specialties, Inc.*, 510 B.R. 205, 221 (Bankr. N.D. Ill. 2014) (holding that "section 1113 may not be used to elevate a union's position ....").

**D. Factor 1—Written Proposal**

Factor 1 requires that the Debtors make a written proposal to SEIU. There is no dispute that the Debtors have done so. The Debtors have satisfied Factor 1.

**E. Factor 6—Meetings at Reasonable Times**

Factor 6 requires that the Debtors meet at reasonable times with SEIU between the time the proposal is made and the hearing on the rejection or modification of the collective bargaining agreement.

Prior to the Initial Hearing, the Debtors, Prime, and SEIU met and engaged in bargaining on May 1, May 5, May 8, June 4, and June 8. In the order setting this Final Hearing, the Court stated that the Debtors were only required to meet with SEIU as to



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the § 1113 proposal, not the negotiations with Prime. After the Initial Hearing, the Debtors facilitated continued meetings between SEIU and Prime, which occurred on June 22 and June 23.

The Debtors have satisfied Factor 6.

**F. Factor 7—Good Faith Negotiations**

Factor 7 requires that the Debtors meet and confer with SEIU in good faith. “The good faith requirement under section 1113 has been interpreted to mean that the debtor must make a serious effort to negotiate.” *Walter Energy*, 542 B.R. at 894.

At the Initial Hearing, the Court rejected SEIU’s argument that the Debtors could not establish good faith by reason of the structure of the APA. The Court finds that the Debtors have made a meaningful effort to negotiate with SEIU. In addition to negotiating with respect to the Debtors’ proposal, the Debtors have facilitated negotiations between SEIU and Prime regarding a Successor CBA. These efforts were important since the negotiation of a Successor CBA would render the Rejection Motion unnecessary.

The Debtors have satisfied Factor 7.

**G. Factor 8 (SEIU’s Refusal to Accept the Proposal without Good Cause) and 9 (Balance of the Equities)**

Under Factor 8, SEIU must have refused to accept the proposal without good cause. Under Factor 9, the balance of the equities must clearly favor rejection of the collective bargaining agreement. Both factors are satisfied.

SEIU lacks good cause for refusing to accept the Debtors’ proposal. SEIU’s refusal to accept the proposal is directed not toward the merits of the proposal itself, but rather is motivated by the objective of putting additional pressure upon Prime regarding the negotiation of a Successor CBA. This is demonstrated by the fact that SEIU’s requests for information have been directed primarily toward issues pertaining to the Successor CBA, not the Debtors’ proposal. In addition, SEIU’s rejection also appears motivated by a desire to obtain administrative status for the severance claims of its members. That objective is understandable, but does not constitute good cause for rejection of the Debtors’ proposal. *See Chicago Const. Specialties, Inc.*, 510 B.R. 205, 221 (Bankr. N.D. Ill. 2014) (holding that “section 1113 may not be used to elevate a union’s position ....”).

The balance of the equities supports rejection. If the Existing CBA is not rejected, the sale of St. Francis cannot close and the hospital will not be able to continue as an operating entity. The sale negotiated by the Debtors allows St. Francis to continue

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operating, with "substantially all" of the SEIU-represented employees to be hired by Prime. It is regrettable that the terms of employment with Prime will most likely be less generous than those under the Existing CBA, but unfortunately, this result is required to permit the continued operation of St. Francis.

Denial of the Rejection Motion would also expose the Debtors' estates to substantial administrative claims, which potentially could render the estates administratively insolvent. UNAC's desire to obtain an administrative claim does not constitute good cause to reject the Debtors' proposal. *See Chicago Const. Specialties, Inc.*, 510 B.R. 205, 221 (Bankr. N.D. Ill. 2014) (holding that "section 1113 may not be used to elevate a union's position ....").

### **III. Conclusion**

For the reasons set forth above, the Rejection Motion is **GRANTED**. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

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**#2.00 Final Hearing**

RE: [4742] Motion to Reject Lease or Executory Contract /Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with UNAC; Declarations of Richard G. Adcock and Steven Sharrer in Support Thereof

FR. 6-3-20; 6-10-20

Docket 4742

**Tentative Ruling:**

7/7/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Rejection Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Papers Filed in Connection with Initial Hearing:
  - a) Debtors' Motion Under § 1113 of the Bankruptcy Code to Reject Collective Bargaining Agreement with UNAC [Doc. No. 4742] (the "Rejection Motion")
    - i) Certificate of Service [Doc. No. 4803]
  - b) Order Setting Briefing Schedule on Section 1113 Motions [Doc. No. 4753]
    - i) Stipulation Continuing Hearing and Deadlines Regarding Debtors' Motions Under Section 1113 of the Bankruptcy Code [Doc. No. 4815]
    - ii) Order Granting Stipulation Continuing Hearing and Deadlines Regarding Debtors' Motions Under Section 1113 of the Bankruptcy Code [Doc. No. 4819]
  - c) Objection of UNAC to Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4800]
    - i) Stipulation Regarding Timeliness of UNAC's Objection to Debtor's Motion to Reject Collective Bargaining Agreement [Doc. No. 4809]
    - ii) Order Approving Stipulation Regarding Timeliness of UNAC's Objection to

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Debtor's Motion to Reject Collective Bargaining Agreement [Doc. No. 4817]

- d) Notice of Filing of Declarations Pursuant to Court's Scheduling Order in Connection with Debtors Motion to Reject Collective Bargaining Agreement with UNAC Under § 1113 of the Bankruptcy Code [Doc. No. 4845]
- e) Ruling Issued in Connection with Initial Hearing [Doc. No. 4858]
- f) Order Setting Final Hearing on Debtors' Motion to Reject Collective Bargaining Agreement with UNAC [Doc. No. 4861]
- 2) Papers Filed in Connection with Final Hearing:
  - a) Debtors' Omnibus Reply and Final Brief in Support of Motions Under § 1113 of the Bankruptcy Code Regarding St. Francis Medical Center [Doc. No. 4987]
  - b) Prime Healthcare's Statement Regarding the Stipulations Between Debtors and (1) UNAC and (2) SEIU, Attached as Exhibits A and B to the Debtors' Omnibus Reply in Support of § 1113 Motions Regarding St. Francis Medical Center [Doc. No. 4996]
  - c) Supplemental Objection of UNAC to Debtors' Motion to Reject Collective Bargaining Agreement [Doc. No. 4988]
  - d) Supplemental Notice Regarding Withdrawal by the United Nurses Associations of California/Union of Health Care Professionals of Certain Disputed Discovery Items Re Debtors' Omnibus Reply, Stipulation and Motions Under § 1113 of the Bankruptcy Code Regarding St. Francis Medical Center [Doc. No. 5027]

## **I. Facts and Summary of Pleadings**

Debtors move for entry of an order authorizing them to reject a collective bargaining agreement (the "Existing CBA") between St. Francis Medical Center ("St. Francis") and the United Nurses Association of California/Union of Health Care Professionals ("UNAC"). *See* Doc. No. 4742 (the "Rejection Motion"). UNAC opposes the Rejection Motion.

### **A. Background**

#### **1. The APA Between the Debtors and Prime**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

On February 26, 2020, the Court entered an *Order (1) Approving Auction Sale Format and Bidding Procedures; (2) Approving Process for Discretionary Selection*

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*of Stalking Horse Bidder and Bid Protections; (3) Approving Form of Notice to be Provided to Interested Parties; (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases [Doc. No. 4165] (the "Bidding Procedures Order").* The Bidding Procedures Order established procedures governing the auction (the "Auction") of St. Francis.

The Bidding Procedures Order authorized the Debtors to designate a Stalking Horse Bidder without further order of the Court. The Debtors designated Prime as the Stalking Horse Bidder. The Debtors received bids from potential purchasers, but after consulting with their advisors and the Consultation Parties (as defined in the Bidding Procedures Order), determined that such bids did not constitute Qualified Bids. The Debtors selected Prime as the Winning Bidder and did not conduct the Auction.

On April 9, 2020, the Court entered an order authorizing the Debtors to sell St. Francis to Prime. *See* Doc. No. 4511 (the "Sale Order"). Material terms of the Asset Purchase Agreement (the "APA") as they pertain to the Existing CBA are as follows:

4.9. Contract With Unions. (a) ... The applicable Sellers and Purchaser shall each participate in all negotiations related to the potential modification and assignment of specific Seller's collective bargaining agreements to Purchaser. The applicable Sellers shall use commercially reasonable efforts to initiate discussions with Purchaser and unions and conduct discussions to renegotiate each collective bargaining agreement currently in effect with each applicable union. The applicable Sellers will not unreasonably withhold, condition or delay Bankruptcy Court approval of any successfully renegotiated collective bargaining agreement. The Parties recognize that Seller's failure to conclude a successor collective bargaining agreement shall not be a breach of Sellers' obligation under this Agreement or otherwise excuse Purchaser's obligations under this Agreement.

(b) On or before the date that is thirty (30) days after the Sale Order Date, the negotiations pursuant to Section 4.9(a) shall have resulted in each, such labor unions, agreeing to either (i) either modification of the St. Francis related collective bargaining agreements under terms that are to be substantially consistent with the Purchaser's existing and most current collective bargaining agreements with each such respective labor union, and that settle all liabilities under the existing Seller collective bargaining agreements that shall be assigned to Purchaser, provided that there are shall be no cure obligations to the Sellers or

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(ii) enter into new collective bargaining agreements that are substantially consistent with the Purchaser's existing collective bargaining agreements with each such respective labor union; provided, that if Purchaser and each labor union have not entered into such agreements described in (i) or (ii) above, or have entered into an agreement under (ii), then Sellers shall have the absolute right to file or take any other action to reject and terminate any such collective bargaining agreement and, in such event, the Bankruptcy Court shall have entered an order granting Sellers' requested rejection of such collective bargaining agreement prior to the Closing Date.

APA at § 4.9.

If Prime and UNAC have not consensually entered into a collective bargaining agreement consistent with § 4.9, Prime is not required to close the sale unless the Debtors have obtained an order authorizing rejection of the Existing CBA:

Sellers shall have satisfied, in all material respects, their obligations set forth in Section 4.9(b). For the avoidance of doubt, in the event that Purchaser and each labor union has not entered into an agreement described in Section 4.9(b)(i) or (ii), then material satisfaction of Section 4.9(b) means that Seller has filed or taken action to reject and terminate any such collective bargaining agreement and that the Bankruptcy Court has entered an order granting Seller's requested rejection of such collective bargaining agreement prior to the Closing Date.

APA at § 8.7.

Either the Debtors or Prime may terminate the APA if the sale has not closed on or before September 1, 2020 (the "Termination Date"), except that the Termination Date shall be December 31, 2020 if the only condition to closing that has not been satisfied is the Attorney General's consent to the sale upon conditions consistent with those that Prime has agreed to accept. *Id.* at § 9.1(i).

2. The Initial Hearing on the Rejection Motion

On June 10, 2020, the Court conducted an initial hearing on the Rejection Motion (the "Initial Hearing"). At the Initial Hearing, the Court found "that consensual resolution of the § 1113 issues remains possible," and set forth "guidance intended to facilitate and channel further negotiations." *See* Doc. No. 4858 at 1. The Court set this final hearing on the Rejection Motion, and directed the parties to file, no later than July 1, 2020, (a) a stipulation setting forth the parties' disputes regarding whether complete

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and reliable information had been provided and (b) final briefs accompanied by appropriate evidence setting forth the parties' positions on those issues that remain in dispute. *See* Doc. No. 4861.

The guidance included the Court's views on the factors set forth in *In re American Provision Co.*, 44 B.R. 907 (Bankr. D. Minn. 1984). With respect to *American Provision* Factor 3, the Court found that the phrase "necessary to permit the reorganization of the debtor" was best interpreted to mean "necessary to permit the Debtors to confirm a liquidating plan." *Id.* at 9-10. Finding that the closing of the sale of St. Francis to Prime was essential to the Debtors' ability to confirm a liquidating plan, the Court concluded that to satisfy Factor 3, the Debtors were required to demonstrate that rejection of the Existing CBA was a prerequisite to the closing of the sale. *Id.*

The Court found that Factor 3 had not yet been satisfied because it remained possible for UNAC and Prime to agree upon terms of a Successor CBA, which would make it unnecessary for the Debtors to obtain an order rejecting the Existing CBA. *Id.* at 10.

With respect to Factors 2 and 5, the Court found that the financial information the Debtors had provided to UNAC—a one-page document captioned "SFMC—Normalized PL Analysis"—was not sufficient:

As explained in the discussion of Factor 3, a Court order authorizing rejection of the [Existing CBA] will not be necessary if UNAC and Prime succeed in negotiating a Successor CBA. In order to evaluate a Successor CBA, UNAC must have access to information showing the cost savings Prime would achieve under the Successor CBA versus the [Existing CBA]. Prime is in the best position to provide such information. However, the Court recognizes that under § 1113, the obligation to provide information is directed toward the Debtors, not Prime. *See Walter Energy*, 542 B.R. at 896 ("To satisfy the second and fifth procedural requirements, a debtor need only provide that information that is within its power to provide."). If Prime fails to provide information regarding cost savings in connection with future operations, the Debtors are obligated to provide UNAC historical information showing the amount of St. Francis' labor costs that are attributable to the [Existing CBA]. UNAC is entitled to information allowing it to assess the economic impacts of the [Existing CBA] upon the continued operation of St. Francis.

Doc. No. 4858 at 11-12 (footnote omitted).

At the Initial Hearing, the Court set this final hearing on the Rejection Motion (the "Final Hearing"), and directed the parties to file, no later than July 1, 2020, (a) a



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stipulation setting forth the parties' disputes regarding whether complete and reliable information has been provided (the "Discovery Stipulation") and (b) final briefs accompanied by appropriate evidence setting forth the parties' positions on those issues that remain in dispute. *See* Doc. No. 4861.

3. The Debtors' Proposal

The Debtors' most recent proposal to UNAC is as follows:

- 1) Providing UNAC consents to rejection of the Existing CBA prior to the Final Hearing, UNAC's employees who are not offered employment by Prime shall receive an allowed claim for severance calculated under the accrual method (the "Severance Benefit"). Amounts of the Severance Benefit earned on and after the Petition Date through the date of the closing of the sale of St. Francis will receive administrative status. Amounts earned after March 4, 2018 and through the day prior to the Petition Date will receive priority claim status up to any remaining balance under § 507(a)(4), up to a maximum of \$12,850 per employee, with any excess granted general unsecured status. Amounts earned prior to March 4, 2018 will receive general unsecured status.
- 2) If UNAC does not consent to rejection of the Existing CBA prior to the Final Hearing, the Debtors will withdraw the Severance Benefit.

**B. Summary of Papers Filed in Connection with the Final Hearing**

UNAC asserts that the Rejection Motion should be denied without prejudice for the following reasons:

- 1) After the Initial Hearing, the Debtors belatedly provided voluminous information that was purportedly responsive to UNAC's information requests. UNAC has not had sufficient time to review the information. UNAC has requested that the Debtors stipulate to an extension of the 30-day deadline for the Court to rule upon the Rejection Motion imposed by § 1113(d)(2) so that additional bargaining sessions can take place. The Debtors have refused to stipulate to an extension. It appears that the Debtors and Prime are deliberately withholding information for as long as possible, and then upon judicial intervention, flooding UNAC with information that cannot be analyzed before the rejection clock runs out. This behavior should not be rewarded. The Rejection Motion should be denied without prejudice, which will allow the Debtors to bring a renewed Rejection Motion, during which negotiations can continue.

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- 2) Prime has not negotiated in good faith. Prime's lack of good faith is relevant because Prime is the beneficiary of the APA. Under federal labor law, Prime is the successor to the Debtors. Prime's lack of good faith includes:
  - a) Stating that it would not negotiate until UNAC conceded that UNAC's requests for information had been adequately satisfied. This attempt to condition overall collective bargaining on ground rules or preconditions is *per se* bad faith bargaining under the National Labor Relations Act. *See UPS Supply Chain Solutions*, 366 NLRB No. 111 (2018) (stating that "it is a *per se* violation of Section 8(a)(5) and (1) for either party to hold collective bargaining hostage to unilaterally imposed preconditions on negotiations").
  - b) Misrepresenting St. Francis' financial operations. In a June 9, 2020 letter, Prime stated that St. Francis had operating losses in excess of \$20 million annually. This figure does not correspond to publicly available data. In an analysis provided to the California Attorney General on June 4, 2020, the medical consulting firm JD Healthcare stated that over the past four years, St. Francis has maintained positive net income ranging from approximately \$70.5 million in fiscal year 2015 to \$18.7 million in fiscal year 2019.

Debtors make the following arguments in support of the Rejection Motion:

- 1) Rejection of the Existing CBA is necessary to facilitate the closing of the sale. Despite the Debtors' continued efforts, Prime and UNAC are not on the verge of a resolution. Upon the closing of the sale, the Debtors will not own St. Francis and, thus, have no need for the Existing CBA. Moreover, the Debtors should not be forced to risk administrative claim exposure by the Existing CBA's continued existence.
- 2) The Debtors have provided UNAC the necessary information to understand their § 1113 proposal. Since the Initial Hearing, Debtors have expended significant effort in responding to new requests for information and supplementing responses to existing requests. Debtors have created and populated a data room containing 144 files, constituting a total amount of 329 MB, with 28 files (36 MB) responsive to employee data requests and 110 files (289 MB) response to financial data requests.
- 3) UNAC does not have good cause to reject the Debtors' proposal. UNAC has conditioned acceptance of the proposal upon action by Prime, rather than offering a counterproposal that the Debtors have the power to accept unilaterally. UNAC's conflation of the Debtors and Prime is improper. UNAC has also taken

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the position that its negotiations with the Debtors are governed by the National Labor Relations Act, which is incorrect as a matter of law. Negotiations with the Debtors are governed solely by § 1113 of the Bankruptcy Code.

## **II. Findings and Conclusions**

Section 1113 provides:

- (a) The debtor in possession, or the trustee if one has been appointed under the provisions of this chapter, ... may assume or reject a collective bargaining agreement only in accordance with the provisions of this section.
  
- (b)
  - (1) Subsequent to filing a petition and prior to filing an application seeking rejection of a collective bargaining agreement, the debtor in possession or trustee (hereinafter in this section "trustee" shall include a debtor in possession), shall—
    - (A) make a proposal to the authorized representative of the employees covered by such agreement, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the employee benefits and protections that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and
    - (B) provide, subject to subsection (d)(3), the representative of the employees with such relevant information as is necessary to evaluate the proposal.
  - (2) During the period beginning on the date of the making of a proposal provided for in paragraph (1) and ending on the date of the hearing provided for in subsection (d)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.
  
- (c) The court shall approve an application for rejection of a collective bargaining agreement only if the court finds that—

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- (1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (b)(1);
- (2) the authorized representative of the employees has refused to accept such proposal without good cause; and
- (3) the balance of the equities clearly favors rejection of such agreement.

"Bankruptcy cases generally approach this complicated statute by breaking the statute into a nine part test" first set forth in *In re Am. Provision Co.*, 44 B.R. 907, 909 (Bankr. D. Minn. 1984). See *In re Karykeion, Inc.*, 435 B.R. 663, 677 (Bankr. C.D. Cal. 2010); see also *In re Family Snacks, Inc.*, 257 B.R. 884, 892 (B.A.P. 8th Cir. 2001) ("Virtually every court that is faced with the issue of whether a Chapter 11 debtor may reject its collective bargaining agreement utilizes a nine-part test that was first set down by the bankruptcy court in *In re American Provision Co.*"). The *American Provision* factors are as follows:

- 1) The debtor in possession must make a proposal to the Union to modify the collective bargaining agreement.
- 2) The proposal must be based on the most complete and reliable information available at the time of the proposal.
- 3) The proposed modifications must be necessary to permit the reorganization of the debtor.
- 4) The proposed modifications must assure that all creditors, the debtor and all of the affected parties are treated fairly and equitably.
- 5) The debtor must provide to the Union such relevant information as is necessary to evaluate the proposal.
- 6) Between the time of the making of the proposal and the time of the hearing on approval of the rejection of the existing collective bargaining agreement, the debtor must meet at reasonable times with the Union.
- 7) At the meetings the debtor must confer in good faith in attempting to reach mutually satisfactory modifications of the collective bargaining agreement.
- 8) The Union must have refused to accept the proposal without good cause.
- 9) The balance of the equities must clearly favor rejection of the collective bargaining agreement.

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*American Provision*, 44 B.R. at 909.

Courts apply the *American Provision* factors even where a debtor is liquidating its assets and does not intend to continue in business after emerging from bankruptcy. Courts reason that "reorganization," as used in § 1113(b)(1)(A), is "generally understood to include all types of debt adjustment, including a sale of assets, piecemeal or on a going concern basis, under § 363 followed by a plan of reorganization which distributes the proceeds of the sale to creditors in accordance with the Bankruptcy Code's priority scheme." *Family Snacks*, 257 B.R. at 895. Some courts have held that where, as here, the Debtors are liquidating their assets, the phrase "necessary to permit the reorganization of the debtor" means "necessary to achieve a sale under § 363 of the Bankruptcy Code." *Alpha Nat. Res., Inc.*, 552 B.R. 314, 333 (Bankr. E.D. Va. 2016); *see also Walter Energy*, 542 B.R. at 890 (requiring that the debtor's proposal "be necessary to permit ... those modifications necessary to consummate a going-concern sale"); *In re Karykeion, Inc.*, 435 B.R. 663, 679 (Bankr. C.D. Cal. 2010) (finding that the debtor had proven that rejection was necessary when the closing of a § 363 sale was contingent on rejection of a collective bargaining agreement). Others courts have concluded that in a liquidating case, the phrase "necessary to permit reorganization of the debtor" means "necessary to accommodate confirmation of a Chapter 11 plan." *Family Snacks*, 257 B.R. at 895.

**A. Factors 2 and 5—Complete Information**

Factor 2 requires that the Debtors' proposal be based on the most complete and reliable information available at the time the proposal is made. Factor 5 requires that the Debtors provide UNAC with "such relevant information as is necessary to evaluate the proposal." For both factors, a debtor "must gather the 'most complete information at the time and ... base its proposal on the information it considers reliable,' excluding 'hopeful wishes, mere possibilities and speculation.' 'The breadth and depth of the requisite information will vary with the circumstances, including the size and complicity of the debtor's business and work force; the complexity of the wage and benefit structure under the collective bargaining agreement; and the extent and severity of modifications the debtor is proposing.'" *In re Walter Energy, Inc.*, 542 B.R. 859, 886 (Bankr. N.D. Ala. 2015), *aff'd sub nom. United Mine Workers of Am. 1974 Pension Plan & Tr. v. Walter Energy, Inc.*, 579 B.R. 603 (N.D. Ala. 2016), *aff'd sub nom. In re Walter Energy, Inc.*, 911 F.3d 1121 (11th Cir. 2018) (internal citations omitted).

*1. The Debtors Have Not Acted in Bad Faith With Respect to the Production of Information*

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UNAC asserts that the Debtors have negotiated in bad faith by failing to respond to UNAC's requests for information until after the Court found at the Initial Hearing that the Debtors were required to supply further information. UNAC contends that the Debtors' strategy is to withhold information for as long as possible, and then flood UNAC with voluminous amounts of information that cannot reasonably be analyzed prior to the Final Hearing.

The Court does not agree that the manner in which the Debtors responded to UNAC's information requests was part of a bad-faith strategy to prevent UNAC from digesting the information provided. It is true that prior to the Initial Hearing, the Debtors provided UNAC with only minimal information. However, contrary to UNAC's characterization, this withholding of information was not a cynical ploy to sabotage UNAC by running down the clock, but was instead based upon the Debtors' good-faith belief that the information requested was not relevant. While the Court ultimately disagreed and found that the information produced to date was not sufficient, the Debtors' contrary position was not frivolous or in bad faith.

Specifically, the Debtors argued that information showing the operating costs attributable to the Existing CBA was not relevant. According to the Debtors: (1) the marketing process had demonstrated that there were no buyers willing to acquire St. Francis subject to the Existing CBA; (2) under the APA, Prime would not assume the Existing CBA; and (3) upon the closing of the sale of St. Francis to Prime, the Debtors no longer needed the Existing CBA. Against this backdrop, the Debtors asserted that information regarding the Existing CBA's impact upon St. Francis operational costs was not necessary for UNAC to evaluate the Debtors' proposal to reject the Existing CBA. In support of this position, the Debtors cited *Walter Energy*, in which the court held:

[T]he "relevant information" was simple and apparent for all to see: the Debtors could not survive absent a sale in the near term, the Proposed Buyer had emerged as the only viable bidder that would purchase the Alabama Coal Operations as a going-concern, the sale of the Alabama Coal Operations as a going-concern provides the best chance for future employment of the Debtors' employees, and the Stalking Horse APA requires elimination of the Successorship Provisions or rejection of the UMWA CBA.

*Walter Energy*, 542 B.R. at 887.

As set forth above, the Court found at the Initial Hearing that the Debtors were required to provide additional financial information, because such additional information might assist Prime and UNAC in reaching a Successor CBA, in which case the Rejection

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Motion would prove unnecessary. Nonetheless, the Debtors' position that such information was not relevant, while ultimately not adopted by the Court, had support in applicable caselaw. There is no merit to UNAC's position that the Debtors have acted in bad faith with respect to the production of information.

2. The Objections of UNAC Set Forth in the Discovery Stipulation are Overruled

UNAC and the Debtors have filed a Discovery Stipulation setting forth the information requests that remain in dispute. With respect to Items II, V, VI, VIII, and X (the "Disputed Items"), UNAC asserts either that (a) the Debtors' production has been insufficient or (b) that UNAC requires additional time to evaluate the adequacy of the Debtors' responses. UNAC has withdrawn its disputes with respect to the sufficiency of the information produced by Prime.

a. Items VI, VIII, and X

Item VI requests the following information:

What concessions are Verity/Prime seeking from other labor groups at SFMC?  
Please identify savings expected from each of the following groups (identify individually):

- a. Other bargaining units
- b. Non-Union units and unions (including retained physicians, etc.)
- c. Management

Item VIII requests the following information:

By what percentage have wages and benefits increased for each bargaining unit, nonbargaining unit employees and management over the last three fiscal years? Please note that non-SFRNA data is required in order to evaluate whether the proposed CBA modifications assure that all creditors, the debtor and all of the affected parties are treated fairly and equitably. Also please note that as the proposed Plan of Reorganization features substantive consolidation, we must ask for this information for all Verity hospital, other than SVMC.

Item X requests the following information:

Please identify the total savings being sought from each of the following groups

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(identify individually): Again, please note that this data is required in order to evaluate whether the proposed CBA modifications assure that all creditors, the debtor and all of the affected parties are treated fairly and equitably. Also please note that as the proposed Plan of Reorganization features substantive consolidation, we must ask for this information for all Verity hospitals, other than SVMC.

- a. Other bargaining units (identify individually);
- b. Non-Union units (including retained physicians, etc.);
- c. Management

UNAC asserts that the information requested by Items VI, VIII, and X is necessary to enable it to determine whether all affected parties are treated fairly and equitably by the proposed rejection of the CBA, as required by *American Provision* Factor 4. The Debtors assert that UNAC's reliance upon Factor 4 is misplaced, because the Debtors are not proposing to pass any benefit from rejection of the Existing CBA to management or other stakeholders, other than allowing the sale to close so that creditors can recover from the sale proceeds in accordance with the Bankruptcy Code's priority scheme.

The Court finds that the information requested in Items VI, VIII, and X is not relevant to UNAC's evaluation of the Debtors' proposal. Under the Debtors' proposal, UNAC-represented employees not hired by Prime are entitled to the Severance Benefit, provided that UNAC agrees to consensual rejection of the Existing CBA prior to the Final Hearing.

The information sought by UNAC might be relevant to UNAC's evaluation of a Successor CBA with Prime, but is not relevant to UNAC's evaluation of whether to agree to rejection of the Existing CBA. It is true that at the Initial Hearing, the Court held that UNAC was entitled to information showing the amount of St. Francis' labor costs attributable to the Existing CBA. Such information was relevant to UNAC's evaluation of the Debtors' proposal, because it might facilitate negotiation of a Successor CBA between Prime and UNAC, which in turn would moot the Rejection Motion. Subsequent to the Initial Hearing, the Debtors have provided UNAC extensive information addressing the impact of the Existing CBA upon St. Francis' labor costs. Information provided by the Debtors as to this issue includes, but is not limited to, the following:

- 1) A spreadsheet containing information on pay rates for UNAC-represented employees, which included the employees' base rate, shift differential, charge differential, preceptor differential, holiday premium, educational reimbursement, paid education leave, on-call pay, call-back pay, double-back pay, and gross



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- earnings. Chadwick Decl. [Doc. No. 4987] at ¶ 15.
- 2) A spreadsheet comparing the St. Francis UNAC wage scale with the wage scale at Garden Grove Hospital and Medical Center, another hospital operated by Prime. Doc. No. 4987, Ex. G, at p. 194.
  - 3) Audited Financials for 2015, 2016, and 2017, and Unaudited Financials for 2018. Chadwick Decl. at ¶ 7.
  - 4) Health, dental, and vision benefits costs specific to UNAC-represented employees for calendar year 2019 and year-to-date for calendar year 2020. *Id.* at ¶ 16.
  - 5) St. Francis payroll information for 2018 and 2019. *Id.* at ¶ 7.
  - 6) Data showing the aggregate amount paid for defined contribution benefit premiums for all St. Francis employees, versus the amount of defined contribution benefit premium payments made for UNAC-represented employees. *Id.* at ¶ 16.
  - 7) The balances on 401(k) loans of UNAC-represented employees. *Id.* at ¶ 17.
  - 8) Information on St. Francis' overall finances, including without limitation:
    - a) Historical and current accounts receivable information. *Id.* at ¶ 7.
    - b) Historical and current accounts payable information. *Id.*
    - c) Fixed assets information. *Id.*
    - d) St. Francis Medicare cost reports. *Id.*
    - e) St. Francis inventory. *Id.*
    - f) Quality assurance fee analysis. *Id.*

The information provided by the Debtors is more than adequate to satisfy the Court's directive that the Debtors provide UNAC information showing the amount of St. Francis' labor costs attributable to the Existing CBA. The context in which the Court ordered the Debtors to supply additional information must be taken into account. It was the Court's expectation that the provision of such information could bridge the gap between UNAC and Prime regarding the terms of a Successor CBA, thereby eliminating the need for the Debtors to reject the Existing CBA. The order to provide additional information was directed more towards facilitating a settlement that would obviate the need for the Rejection Motion than enabling UNAC to understand the proposal to reject the Existing CBA.

Notwithstanding the Debtors' provision of extensive additional information, a settlement has not occurred. The Court declines UNAC's invitation to require the Debtors to provide even more information. It does not appear to the Court that requiring the production of additional information would be likely to facilitate agreement between Prime and UNAC on the terms of a Successor CBA.

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UNAC has all the information it needs to evaluate the Debtors' proposal for rejection of the Existing CBA. There is no merit to UNAC's assertion that further information is required so that UNAC can determine whether rejection of the Existing CBA treats all parties fairly and equitably. For the reasons set forth in the discussion of Factor 4, below, the Court finds that rejection is fair and equitable.

b. Item II

Item II requests the following information:

How are UNAC/UHCP unit costs compared with all SFMC labor costs for last three fiscal years?

The Debtors contend that responsive information was added to the data room on June 30, 2020. UNAC states that it is still reviewing the extent to which the new information satisfies its request, and therefore reserves the right to object.

The Court finds that the Debtors have provided sufficient information with respect to Item II. As discussed above, the Debtors have provided sufficient information to allow UNAC to assess the amount of St. Francis' labor costs that are attributable to the Existing CBA.

c. Item V

Item V requests the following information:

What is Prime's proposal to address outstanding 401k loans? We had previously addressed this in the last round of restructuring. Will Prime takeover the current plan or make all employees start a new one? If not continuing, what are the savings/costs of the new plan? Is this included in cost/savings comparisons? What is the estimated total outstanding amount owed by UNAC/UHCP members? What is the average amount owed?

The Debtors have agreed to provide one month of 401(k) matching data in response to this request. UNAC has stated that it will withdraw the request if the Debtors timely provide the information.

The Court finds that the Debtors' agreement to provide the 401(k) matching data

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3. The Debtors Have Satisfied Factors 2 and 5

The Court finds that the Debtors have provided UNAC with relevant information necessary to evaluate the proposal. The Debtors have provided UNAC with extensive information regarding St. Francis' finances and the portion of operating costs that are attributable to the Existing CBA. This information is more than sufficient to enable UNAC to assess the Debtors' proposal to rejecting the Existing CBA. UNAC knows that no buyers other than Prime submitted an offer to purchase St. Francis notwithstanding extensive marketing, and that Prime is not willing to acquire St. Francis subject to the Existing CBA. The Debtors have satisfied Factors 2 and 5.

**B. Factor 4—Fair and Equitable Treatment**

Factor 4 requires that the proposed modifications to the CBAs treat all creditors, the Debtors, and all affected parties fairly and equitably. As explained by the court in *Walter Energy*:

This requirement "spread[s] the burden of saving the company to every constituency while ensuring that all sacrifice to a similar degree." "Courts take a flexible approach in considering what constitutes fair and equitable treatment due to the difficulty in comparing the differing sacrifices of the parties in interest." A debtor can meet the requirement "by showing that its proposal treats the union fairly when compared with the burden imposed on other parties by the debtor's additional cost-cutting measures and the Chapter 11 process generally."

*Walter Energy*, 542 B.R. at 892.

In applying this factor, it is important to emphasize how the Debtors arrived at this point. In early 2014, facing serious operating losses, the Debtors began evaluating strategic alternatives. First Day Decl. of Richard G. Adcock [Doc. No. 8] at ¶ 87. To continue operations until a contemplated sale or recapitalization could close, the Debtors borrowed \$125 million in 2014. *Id.* In 2015, the Debtors entered into a recapitalization transaction with BlueMountain Capital Management LLC ("BlueMountain"). BlueMountain injected \$100 million of capital and arranged for an additional \$160 million of loans. *Id.* at ¶¶ 88–89. Despite BlueMountain's infusion of cash, the health system did not prosper. *Id.* at ¶ 93.

In July 2017, NantWorks, LLC loaned another \$148 million to the Debtors. *Id.* at ¶ 94. Notwithstanding these additional capital infusions and the retention of various

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consultants and experts to improve operations, losses of approximately \$175 million annually continued to mount. *Id.* at ¶ 95. In sum, prior to seeking bankruptcy relief, the Debtors diligently attempted to put their operations on a sound financial footing, but were unable to do so, in part because of the legacy cost structure imposed by the Existing CBA.

St. Francis has been extensively marketed, but neither Prime nor any other buyer is willing to acquire the hospital subject to the Existing CBA. In June 2018, prior to the Petition Date, the Debtors engaged Cain Brothers, a division of KeyBanc Capital Markets (“Cain”) to market all of the Hospitals, including St. Francis. Beginning in July 2018, Cain prepared a Confidential Investment Memorandum (the “CIM”), created an online data room to share information with potential buyers, and contacted over 110 strategic and financial buyers. Subsequent to the Petition Date, Cain continued to market St. Francis.

In connection with a prior sale to Strategic Global Management, Inc. (“SGM”) that did not close (the “SGM Sale”), St. Francis was extensively marketed. Cain notified 90 parties of the sale process, provided access to a data room to sixteen parties who executed non-disclosure agreements (“NDAs”), and remained in contact with potential purchasers to respond to questions and provide information.

After the SGM Sale failed to close, Cain commenced a new marketing process. In December 2019, Cain began making phone calls to parties who had previously expressed interest in acquiring St. Francis. On January 3, 2020, Cain e-mailed all parties who had previously executed NDAs and explained that the Debtors were initiating another marketing process. Ultimately, 61 parties executed NDAs with respect to the renewed marketing process and were granted access to an online data room.

On January 31, 2020, the Debtors received seven Indications of Interest (the “IOIs”) for the potential acquisition of St. Francis. Cain contacted the seven potential purchasers who submitted the IOIs and continued to work with the purchasers to respond to questions and provide information. Ultimately, Prime was the only party who submitted a qualifying bid for St. Francis.

St. Francis cannot continue to operate unless it is purchased by a solvent third-party such as Prime. Further, under the APA Prime is required to hire "substantially all" of St. Francis' current employees. Without rejection of the Existing CBA, St. Francis would not continue to operate as a going concern, and all of the UNAC-represented employees would lose their jobs. Under these circumstances, rejection of the Existing CBA is fair and equitable. The Court notes that sacrifices imposed by these bankruptcies have been widespread. For example, current projections indicate that unsecured creditors will receive a distribution of only 0.5% on account of their claims. The Debtors have satisfied

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**C. Factor 3—Necessity of Rejection**

In the context of this case, the term “necessary to permit the reorganization of the debtor” is best interpreted to mean “necessary to permit the Debtors to confirm a liquidating plan.” This interpretation aligns most closely with the manner in which the Debtors are prosecuting this case. From the outset, the Debtors have stated their intent to sell their hospitals and use the proceeds from the sales to fund a plan of liquidation. This process is well underway. The sales of O’Connor Hospital, St. Louise Regional Medical Center, and St. Vincent Medical Center have all closed.

The closing of the sale of St. Francis to Prime is essential to the Debtors’ ability to confirm a liquidating plan. The failure of the prior sale of St. Francis to Strategic Global Management, Inc. has made confirmation of a liquidating plan more challenging by requiring the Debtors to remain in bankruptcy for far longer than had been anticipated. To satisfy Factor 3, the Debtors must demonstrate that rejection of the Existing CBA is a prerequisite to the closing of the sale.

The Debtors have satisfied this factor. Prime will not acquire St. Francis subject to the Existing CBA. Prime and UNAC have been unable to agree upon a Successor CBA—which would eliminate the need for rejection of the Existing CBA—even though the parties have devoted hundreds of hours to negotiations. The sale to Prime cannot close absent rejection of the Existing CBA. In addition, as set forth in the discussion of Factor 4, no buyer is willing to acquire St. Francis subject to the Existing CBA.

**D. Factor 1—Written Proposal**

Factor 1 requires that the Debtors make a written proposal to UNAC. There is no dispute that the Debtors have done so. The Debtors have satisfied Factor 1.

**E. Factor 6—Meetings at Reasonable Times**

Factor 6 requires that the Debtors meet at reasonable times with UNAC between the time the proposal is made and the hearing on the rejection or modification of the collective bargaining agreement.

Prior to the Initial Hearing, the Debtors, Prime, and UNAC met and engaged in bargaining on April 22, April 28, May 1, May 5, May 6, May 9, May 19, May 21, May 26, June 2, June 5, and June 9. In the order setting this Final Hearing, the Court stated that the Debtors were only required to meet with UNAC as to the § 1113 proposal, not the negotiations with Prime. After the Initial Hearing, the Debtors continued to facilitate meetings between UNAC and Prime.

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**CONT... Verity Health System of California, Inc.**  
The Debtors have satisfied Factor 6.

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**F. Factor 7—Good Faith Negotiations**

Factor 7 requires that the Debtors meet and confer with UNAC in good faith. “The good faith requirement under section 1113 has been interpreted to mean that the debtor must make a serious effort to negotiate.” *Walter Energy*, 542 B.R. at 894.

UNAC asserts that the Debtors cannot satisfy Factor 7 as a result of the alleged bad-faith of Prime. UNAC’s arguments are without merit. Only the Debtors’ good faith is relevant under § 1113. The Debtors cannot be held responsible for Prime’s negotiating posture. UNAC cites no authority—and the Court is aware of none—holding that denial of a § 1113 motion is warranted based on actions taken by a purchaser in negotiating a successor CBA.

Here, the Debtors have made a serious attempt to negotiate, meeting with UNAC on multiple occasions and devoting hundreds of hours to the negotiation process. The Debtors have satisfied Factor 7.

**G. Factor 8 (UNAC’s Refusal to Accept the Proposal without Good Cause) and 9 (Balance of the Equities)**

Under Factor 8, UNAC must have refused to accept the proposal without good cause. Under Factor 9, the balance of the equities must clearly favor rejection of the collective bargaining agreement. Both factors are satisfied.

UNAC lacks good cause for refusing to accept the Debtors’ proposal, because UNAC’s refusal is not directed toward the merits of the Debtors’ proposal but instead is intended to put additional pressure upon Prime with respect to the negotiation of a Successor CBA. This is demonstrated by the fact that the document UNAC sent the Debtors, which it characterized as a counterproposal, consisted of a redline to the wage scale proposed by Prime in connection with the Successor CBA. UNAC’s purported counterproposal did not address the terms of the Debtors’ proposal. UNAC’s objective was to obtain a better result with Prime. However, the Debtors’ ability to influence Prime with respect to the Successor CBA is limited, since Prime is the only entity willing to purchase St. Francis.

The balance of the equities supports rejection. If the Existing CBA is not rejected, the sale of St. Francis cannot close and the hospital will not be able to continue as an operating entity. The sale negotiated by the Debtors allows St. Francis to continue operating, with "substantially all" of the UNAC-represented employees to be hired by Prime. It is regrettable that the terms of employment with Prime will most likely be less generous than those under the Existing CBA, but unfortunately, this result is required to

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

permit the continued operation of St. Francis.

Denial of the Rejection Motion would also expose the Debtors' estates to substantial administrative claims, which potentially could render the estates administratively insolvent. UNAC's desire to obtain an administrative claim does not constitute good cause to reject the Debtors' proposal. *See Chicago Const. Specialties, Inc.*, 510 B.R. 205, 221 (Bankr. N.D. Ill. 2014) (holding that "section 1113 may not be used to elevate a union's position ....").

**III. Conclusion**

For the reasons set forth above, the Rejection Motion is **GRANTED**. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**2:20-10264 450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

**#3.00** Hearing  
RE: [138] Motion -- Motion To Approve Stipulation With First, Second, And Third Lienholders Regarding The Automatic Stay, Forbearance, And Related Matters; Memorandum Of Points And Authorities; Declaration Of Richard J. Laski Support Thereof, With Proof Of Service

Docket 138

**Tentative Ruling:**

7/7/2020

Hearing required.

**Party Information**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By  
Aram Ordubegian  
Christopher K.S. Wong  
M Douglas Flahaut



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2:19-24805 LCI Group Limited LLC

Chapter 11

**#4.00** HearingRE: [42] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice Of Motion And Motion For Order Authorizing Sale Of Real Property Pursuant To 11 U.S.C. § 363 Free And Clear Of All Liens, Claims And Interests; And Granting Certain Other Related Relief; Memorandum Of Points And Authorities In Support Thereof; Declarations Of Larry Underwood And Keith Kelley In Support Thereof.

Docket 42

**Tentative Ruling:**

7/7/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

**The Debtor shall direct potential overbidders, if any, to contact the above-referenced number prior to the hearing.**

For the reasons set forth below, the Sale Motion is GRANTED. The Court will conduct the sale auction in accordance with the procedures set forth below.

**Key Sale Terms:**

- 1) Proposed purchasers: Daniel Wayne Sermon and Alexandra Sermon
- 2) Property for Sale: 15 Upper Blackwater Canyon Road, Rolling Hills, California 90274
- 3) Purchase price: \$5,875,000
- 4) Overbids: The minimum overbid amount shall be \$5,925,000 in cash. Subsequent overbids shall be in increments of \$25,000.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion For Order Authorizing Sale of Real Property Pursuant to 11 U.S.C. § 363 Free and Clear of All Liens, Claims And Interests; and Granting Certain Other Related Relief [Doc. No. 42] (the "Sale Motion")

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CONT... LCI Group Limited LLC

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- 2) Notice of Sale of Estate Property [Doc. No. 43]
- 3) Supplemental Declaration of Larry Underwood in Support of Sale Motion [Doc. No. 47]
- 4) Response and Reservation of Rights of So-Cal Capital, Inc. to Debtor's Motion for Order Authorizing Sale of Real Property [Doc. No. 48] (the "Response")
- 5) As of the preparation of the tentative ruling, no opposition is on file

### **I. Facts and Summary of Pleadings**

LCI Group Limited, LLC (the "Debtor") filed a voluntary chapter 11 petition on December 19, 2019 (the "Petition Date") [Doc. No. 1]. The Debtor's only significant asset consists of an ownership interest in real property located at 15 Upper Blackwater Canyon Road, Rolling Hills, CA 90274 (the "Property"). The Debtor moves for an order authorizing the sale of the Property, free of all liens, claims, and encumbrances pursuant to § 363. The Debtor also seeks additional relief, including, *inter alia*, authorization for the payment of brokers' sale commissions.

### **Events Leading to the Sale of the Property**

The Property is subject to a first-priority security interest held by So-Cal Capital, Inc. ("So-Cal"), which currently secures indebtedness of \$4,745,278.74. *See* Sale Motion at 10. On January 6, 2020, So-Cal filed a motion for relief from the automatic stay, seeking to regain possession of the Property (the "Stay Relief Motion"). The Debtor opposed the Stay Relief Motion. On January 28, 2020, the Court denied the Stay Relief Motion, subject to certain time-sensitive conditions to be fulfilled by the Debtor. *See* Doc. No. 17 [Court's Ruling on Stay Relief Motion]. More specifically, the Court instructed the Debtor to obtain an order contemplating the sale of the Property by no later than June 15, 2020. *See id.* Unable to locate a buyer willing to pay asking price, the Debtor filed a motion to extend deadlines pertaining to the sale of the Property by at least six months [Doc. No. 24]. The Court declined to grant the requested six-month extension but provided the Debtor an opportunity to submit a declaration in support of a shorter delay. On June 15, 2020, the Debtor filed a declaration by Lawrence Underwood ("Underwood"), the Debtor's principal, attesting that the Debtor had accepted a counteroffer to purchase the Property for \$5,875,000. *See* Doc. No. 36 [Underwood's Declaration]. Based on the foregoing, the Court granted the Debtor a brief continuance to file a motion seeking approval of the contemplated sale. The filing of the instant Sale Motion followed on June 19, 2020 [Doc. No. 42].

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CONT... LCI Group Limited LLC

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**The Proposed Sale**

The Debtor seeks authorization to sell the Property, "as is," "where is," and free and clear of liens, claims, and encumbrances, pursuant to § 363(b) and (f). Following negotiations, the Debtor entered into an agreement with Daniel Wayne Sermon and Alexandra Sermon (the "Buyers") for the purchase of the Property in the sum of \$5,875,000, subject to court approval and any qualified overbids received. *See* Sale Motion, Ex. 5. Pursuant to the sale terms, the Buyers are required to make an initial escrow deposit of \$176,250 and a second tender of \$2,673,750 before the close of escrow. The Debtor proposes the following treatment of the liens and encumbrances against the Property:

- 1) **Lien for property taxes recorded by the Los Angeles County Tax Collector in the amount of \$65,014.08 (the "LA Tax Lien")**. Based on the Sale Motion, the Debtor proposes to fully pay the LA Tax Lien, through escrow, from the proceeds of the sale. The sale will be free and clear of the Lax Tax Lien.
- 2) **Senior Deed of Trust in favor of So-Cal, securing current indebtedness of \$4,745,278.74 (the "So-Cal DOT")**. The Debtor will pay through escrow all amounts owed on the So-Cal DOT. The sale will be free and clear of the So-Cal DOT.
- 3) **Homeowners' Association Dues owed to the Rolling Hills Community Association of Rancho Palos Verdes in the amount of \$12,628.50 (the "HOA Dues")**. Based on the Sale Motion, the HOA Dues will be paid, in full, through escrow. The sale will be free and clear of the HOA Dues.

The Sale Motion asserts that the Debtor has opened escrow with Westview Escrow, and the Buyers deposited the initial \$176,250 payment into the escrow account on June 17, 2020 (Exhibit 7). In support of the Buyers' ability to consummate the sale, the Debtor has attached several documents, including a copy of a pre-approval letter from City National Bank for a \$4,000,000 loan (Exhibit 8). Closing and recording costs, transfer taxes originating from the sale, and any other costs associated with title insurance endorsements will be paid by the Debtor. Accordingly, after the above-referenced liens are resolved, and the costs of sale are fully paid, the estate will be entitled to net sale proceeds in the sum of \$700,000.

In addition, the Debtor requests that the Court approve proposed sale procedures; determine that the Buyers, or any back-up bidder, are entitled to a good-faith finding under § 363(m); and approve the payment of a 4.5% sale commission to the parties' real

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estate brokers (the "Commissions"), 2% of which will be paid to the Debtor's broker and the other 2.5% to the Buyers' broker.

So-Cal filed a response to the Sale Motion on June 26, 2020. So-Cal does not object to the granting of the Sale Motion. So-Cal reserves all of its rights and requests that the order approving the Sale Motion provide language ensuring that its lien will be paid through escrow at closing. The Debtor supplied the *Supplemental Declaration of Larry Underwood* [Doc. No. 47] in answer to So-Cal's response. Underwood clarifies that the prayer relief on page 20, lines 26-28 for item (8) should be substituted with the following language: "Authorizing payments of the liens, claims and interests on and against the Property (collectively referred herein as the "Liens, Claims and Interest") at the close of escrow."

As of the posting of this tentative ruling, no other response or opposition have been filed.

## **II. Findings and Conclusions**

### **The Proposed Sale is Approved**

Section 363(b) of the Bankruptcy Code permits a debtor-in-possession to sell estate property outside the ordinary course of business, subject to court approval. The debtor-in-possession must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19–20 (B.A.P. 9th Cir. 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19–20.

The Debtor has demonstrated sufficient business justification for the sale. The sale is consistent with the Debtor's statutory obligation as a debtor-in-possession to liquidate the estate's assets. Section 363(f) provides that estate property may be sold free and clear of liens, claims, and interests, providing one of the following conditions is satisfied:

- 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 sold is greater than the aggregate value of all liens on such property;
- 4) Such interest is in bona fide dispute; or

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**LCI Group Limited LLC**

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- 5) Such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

Section 363(f) was drafted in the disjunctive; therefore, the Debtor needs to satisfy only one of the five subsections of Section 363(f) in order for the sale to be free and clear of all interests. *See e.g., Citicorp Homeowners Services, Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (Bankr. E.D. Pa. 1988). The Court approves the Debtor's proposed treatment of the liens and encumbrances against the Property, and finds that the Property may be sold free and clear of such liens and encumbrances. Pursuant to § 363(f)(3), the sale is free and clear of the LA Tax Lien, the HOA Dues, and the So-Cal DOT because the purchase price of the Property exceeds the aggregate value of such liens by \$1,052,078.68. The Debtor is authorized to pay all holders of liens and encumbrances, which includes the outstanding balance owed on the So-Cal DOT, through escrow at closing. The Debtor may take any reasonable and adequate measures described in the Sale Motion to ensure the timely closing of the sale, including delivering the Property free and clear of any tenancies, setting aside any portion of sale proceeds attributable to disputed claims, liens, or encumbrances, *inter alia*.

The Debtor is further authorized to pay the Commissions entitled to the parties' real estate brokers at the close of escrow. Having reviewed Underwood's declaration, the Sale Motion, and all other exhibits affixed in support thereto, the Court finds that the Buyers are good faith purchasers entitled to the protections of § 363(m). In the event that an overbidder prevails at the auction, the Court will take telephonic testimony from such overbidder to determine whether §363(m) protections are warranted.

**Auction Procedures**

As a result of the COVID-19 pandemic, the courtroom is unavailable for in-court appearances. All potential overbidders must appear by telephone only. In the event that any qualified overbidder makes a telephonic appearance, the Court will conduct an auction in accordance with the procedures set forth in the Sale Motion. The initial overbid will be at \$5,925,000, with subsequent overbids to be in increments of \$25,000. The overbid increment is subject to adjustment by the Court to facilitate bidding. The Court will announce each bid level. To remain in the auction, bidders must participate at all bid levels. That is, parties who do not bid in a round cannot later change their minds and re-enter the auction. Parties may make a bid higher than that announced by the Court by clearly stating their bid.

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**III. Conclusion**

For the reasons set forth above, the Sale Motion is GRANTED. The Court will conduct the auction in accordance with the procedures set forth above. Because no opposition is on file, the order approving the Sale Motion shall take effect immediately upon entry, notwithstanding Bankruptcy Rule 6004(h).

Within seven days of the hearing, the Debtor shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

LCI Group Limited LLC

Represented By  
Michael Jay Berger

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**2:15-21374 Maria Del Carmen Linares**

**Chapter 7**

**#100.00** HearingRE: [83] Application for Compensation Application for Payment of (First) Interim Fees and/or Expenses (11 U.S.C. § 331) for H.Y.P. LAW GROUP, Special Counsel, Period: 3/1/2019 to 6/15/2020, Fee: \$2500.00, Expenses: \$0.00. (Blumenfeld, Ori)

Docket 83

**Tentative Ruling:**

**Notice:** OK

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, CONTINUE HEARING to **August 4, 2020 at 11:00 a.m.** to be heard concurrently with the Motion to Pay Claims Free and Clear of Purported Medical Liens [Doc. No. 59]. The fee applicants must prepare and file supplemental briefs in response to the below-discussed issues by no later than **July 24, 2020.**

**Pleadings Filed and Reviewed:**

1. First Interim Application of Best Best & Krieger LLP for Allowance of Fees and Reimbursement of Costs [Doc. No. 70] (“First Interim Application of BBK”)
2. First Interim Application of McElfish Law Group for Allowance of Fees and Reimbursement of Costs [Doc. No. 71]
3. Application for Payment of Interim Fees and/or Expenses (11 U.S.C. § 331) for H.Y.P. Law Group [Doc. No. 83]
4. Chapter 7 Trustee’s Limited Objection to Interim Fee Application of McElfish Law Firm [Doc. No. 87]

**I. Facts and Summary of Pleadings**

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**CONT... Maria Del Carmen Linares**

**Chapter 7**

On July 20, 2015, Maria del Carmen Linares (the “Debtor”) filed a voluntary chapter 7 petition. David M. Goodrich was appointed as chapter 7 trustee (the “Trustee”). The case was initially closed on November 3, 2015 and reopened on May 31, 2018, on the request of the United States Trustee.

Best Best & Krieger LLP (“BBK”), the McElfish Law Firm (“McElfish”), and the H.Y.P. Law Group (“H.Y.P”) filed the instant applications for fees and costs [Doc. Nos. 70, 71, 83]. [Note 1]. In addition, the Trustee filed a limited objection against the McElfish fee application one day before the hearing [Doc. No. 87]. Having reviewed the fee applications, the Trustee’s limited objection, and documentation attached in support thereto, the Court is not prepared to grant the fee applications at this time. These matters will be continued to August 4, 2020 at 11:00 a.m. to afford fee applicants an opportunity to respond to the following issues:

First, the Court notes that the Personal Injury Lawsuit was settled on or about October 31, 2018, but a settlement agreement was not signed by all the parties until June 2019. [Note 2]. First Interim Application of BBK [Doc. No. 70] at 4. The Trustee’s general bankruptcy counsel explains that this protracted delay and the attendant legal costs incurred were the result of certain demands made by H.Y.P. The Trustee must explain why the unnecessary expense and delay caused by H.Y.P. could not be expeditiously resolved by motion practice, and why the applicants’ fees and costs requested herein should not be reduced accordingly. Second, the applicants must explain their decision in filing applications for interim fees and costs, as opposed to final applications. The Court is perplexed as to what additional legal services must be rendered by each applicant to bring this chapter 7 case to a close. Last, the Court notes that the order to employ H.Y.P. as special counsel to the trustee was entered on October 22, 2019, with an effective date of March 1, 2019. However, the fee application submitted by H.Y.P. consists of 6 thinly described work entries billed between March 5, 2020 and May 8, 2020. H.Y.P. broadly seeks \$2,500 for communicating with 10 different parties concerning medical liens against the Debtor’s estate. Pursuant to LBR 2016, H.Y.P.’s fee application fails to supply an adequate description of services rendered for the benefit of the estate. [Note 3]. The Court does not understand why the Trustee sought H.Y.P. to be employed *nunc pro tunc* to March 1, 2019, when it appears that the applicant did not render any services until March 2020. Additionally, the Court notes that H.Y.P.’s inability to cooperate with the Trustee has continued to be a problem, even after the Court approved its employment. Motion to Pay Claims Free and Clear of Purported Medical Liens [Doc. No. 59] at 7 (“the Trustee has requested of Mr.



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**Chapter 7**

Yazdanpanah, in writing, a status and itemization of the Medical Liens no less than five times, on December 30, 2019, February 11, 2020, March 11, 2020, April 13, 2020, and April 29, 2020."). In sum, H.Y.P. must explain to the Court why it is entitled to any fees when it has consistently caused the estate unnecessary administrative costs and delays.

### **III. Conclusion**

Based on the foregoing, the tentative ruling is to CONTINUE hearing on the fee applications to **August 4, 2020 at 11:00 a.m.** The fee applicants must prepare and file supplemental briefs in response to the below-discussed issues by no later than **July 24, 2020.**

The Trustee shall lodge a conforming proposed order within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Trustee obtained orders to employ BBK as general bankruptcy counsel and McElfish and H.Y.P. as special counsel. *See* Doc. Nos. 23, 30, 48.

**Note 2:** Terms not defined herein shall have the meaning ascribed in the First Interim Application of BBK.

**Note 3:** LBR 2016 sets a detailed summary information that each applicant must proffer in support of interim fees, which includes, *inter alia*: a brief narrative of services rendered, a brief narrative history and report concerning the status of the case, and a declaration that the client has reviewed and approved the fee application. Given its purported noncooperation with the Trustee, H.Y.P. must satisfy these requirements in detail. For instance, H.Y.P. neglects to discuss its alleged inability to communicate with the Trustee with respect to the medical liens, or specifically list which parties have agreed to execute a settlement agreement benefitting the estate.

**Party Information**

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11:00 AM

**CONT... Maria Del Carmen Linares**

**Chapter 7**

**Debtor(s):**

Maria Del Carmen Linares

Represented By  
Caroline Djang

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Caroline Djang

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**2:15-21374 Maria Del Carmen Linares**

**Chapter 7**

**#101.00** Hearing

RE: [70] Application for Compensation (First Interim) for **BEST BEST & KRIEGER LLP** Period: 6/4/2018 to 6/11/2020, Fee: \$30801.00, Expenses: \$301.21.

Docket 70

**Tentative Ruling:**

See Cal. No. 100, incorporated in full by reference.

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

Maria Del Carmen Linares

Represented By  
Caroline Djang

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Caroline Djang

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**Hearing Room 1568**

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**2:15-21374 Maria Del Carmen Linares**

**Chapter 7**

**#102.00** HearingRE: [71] Application for Compensation (First Interim) for McElfish Law Firm, Special Counsel, Period: 8/8/2018 to 12/31/2019, Fee: \$225000.00, Expenses: \$21330.04.

Docket 71

**Tentative Ruling:**

**Notice:** OK

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, CONTINUE HEARING to **August 4, 2020 at 11:00 a.m.** to be heard concurrently with the Motion to Pay Claims Free and Clear of Purported Medical Liens [Doc. No. 59]. McElfish must prepare and file a supplemental brief in response to the below-discussed issues by no later than **July 24, 2020.**

**Pleadings Filed and Reviewed:**

1. First Interim Application of McElfish Law Group for Allowance of Fees and Reimbursement of Costs [Doc. No. 71]
2. Chapter 7 Trustee's Limited Objection to Interim Fee Application of McElfish Law Firm [Doc. No. 87]
3. Application by Chapter 7 Trustee for Authority to Employ McElfish Law Firm Corporation as Special Counsel [Doc. No. 24]
4. Order Approving Chapter 7 Trustee's Application for Authority to Employ McElfish Law Firm Corporation as Special Counsel [Doc. No. 30]

**I. Facts and Summary of Pleadings**

On July 20, 2015, Maria del Carmen Linares (the "Debtor") filed a voluntary chapter 7 petition. David M. Goodrich was appointed as chapter 7 trustee (the

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**Chapter 7**

“Trustee”). The case was initially closed on November 3, 2015 and reopened on May 31, 2018, on the request of the United States Trustee.

The McElfish Law Firm (“McElfish”) filed the instant application for fees and costs [Doc. No. 71] (the “Fee Application”) on June 17, 2020. The Trustee filed a limited objection against the McElfish fee application one day before the hearing [Doc. No. 87].

For services rendered, McElfish seeks fees in the sum of \$225,000 and expenses in the sum of \$21,330.04. McElfish claims to be entitled to a contingency fee of 45% of the settlement amount reached in the Personal Injury Lawsuit, which it supports by reference to a retainer agreement affixed as Exhibit 1 of the Fee Application. However, the retainer agreement is between the Debtor and the H.Y.P. Law Group (“H.Y.P”). The Court notes that the application to employ to McElfish (the “Employment Application”) does not disclose the contingency fee figure contemplated in the Fee Application, nor the retainer agreement supplied in the Fee Application. In addition, the Employment Application states that McElfish’s fees and expenses would be subject to the provisions under § 328, while the order approving the Employment Application provides compensation would be reviewed under § 330 [Doc. No. 30]. The Fee Application does not address such discrepancy. Based upon the foregoing, hearing on McElfish’s fee application will be continued to August 4, 2020 at 11:00 a.m. to afford McElfish an opportunity to respond to the above-referenced issues.

### **III. Conclusion**

Based on the foregoing, the tentative ruling is to CONTINUE hearing on the fee applications to **August 4, 2020 at 11:00 a.m.** McElfish must prepare and file a supplemental brief in response to the above-discussed issues by no later than **July 24, 2020**. McElfish may also respond to the Trustee’s limited objection in its supplemental briefing.

The Court will enter the order.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 8, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Maria Del Carmen Linares**

**Chapter 7**

Court Call at 888-882-6878, no later than one hour before the hearing.

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

Maria Del Carmen Linares

Represented By  
Caroline Djang

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Caroline Djang

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14539 Freda Regene Rutherford**

**Chapter 7**

**#1.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Mercedes-Benz CLS Class, VIN: WDDLJ7DBXEA098914 . (Ith, Sheryl)

Docket 8

**Tentative Ruling:**

7/9/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 13, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Freda Regene Rutherford**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Freda Regene Rutherford

Represented By  
Sina Maghsoudi

**Trustee(s):**

John P Pringle (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14379 Petroleum Gas Station Maintenance and Construction**

**Chapter 7**

**#2.00 Hearing**

RE: [7] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: LASC Case No. 19STCV15749 Brian Niehaus, et al., v. Petroleum Gas Station Maintenance and Construction Company, Inc., et al..

Docket 7

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-8-20**

**Tentative Ruling:**

- NONE LISTED -

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

Petroleum Gas Station Maintenance

Represented By  
James R Selth

**Trustee(s):**

Edward M Wolkowitz (TR)

Represented By  
Anthony A Friedman

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01385 Mastan, Chapter 7 Trustee v. US Bank, N.A. et al

**#1.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01385. Complaint by Peter J. Mastan, Chapter 7 Trustee against US Bank, N.A., Kenny Hwang, Hee Jung Lee. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

US Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

Hee Jung Lee

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#2.00** Status Hearing

RE: [11] Crossclaim by HSBC Bank, N.A. against Jason Young Cho, Youngduk Duk Cho

fr: 1-14-20; 3-17-20

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Represented By  
Jennifer Witherell Crastz

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#3.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01386. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Jason Young Cho. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20; 3-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Pro Se

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01388 Mastan, Chapter 7 Trustee v. Bank of America, N.A. et al

**#4.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01388. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of America, N.A.. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 6-11-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of America, N.A.

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT...**

**Keystone Textile, Inc.**

Meghann A Triplett  
Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01392 Mastan v. Flintridge Preparatory School, Inc. et al

**#5.00 Status Hearing**

RE: [37] Amended Complaint First Amended Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (4) Preservation of Avoided Transfer [11 U.S.C. § 551] by Meghann A Triplett on behalf of Peter Mastan against Flintridge Preparatory School, Inc., Nam Soo Hwang, Young J. Hwang, Young Jae Hwang. (RE: related document(s)1 Adversary case 2:19-ap-01392. Complaint by Peter Mastan against Flintridge Preparatory School, Inc., Hee Young Hwang, Young J. Hwang, Joyce J. Hwang, Nam Soo Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) filed by Plaintiff Peter Mastan). (Triplett, Meghann)

FR. 5-12-20

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Defendant(s):**

Flintridge Preparatory School, Inc.	Pro Se
Joyce J. Hwang	Represented By Christian T Kim
Nam Soo Hwang	Represented By Christian T Kim
DOES 1 through 10	Pro Se
Hee Young Hwang	Represented By Christian T Kim
Young J. Hwang	Represented By Christian T Kim
Young Jae Hwang	Represented By Christian T Kim
Hee Youn Hwang	Represented By Christian T Kim

**Plaintiff(s):**

Peter Mastan	Represented By Meghann A Triplett
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**Trustee(s):**

Peter J Mastan (TR)	Represented By Meghann A Triplett Noreen A Madoyan
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, July 14, 2020

Hearing Room 1568

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01393 Mastan, Chapter 7 Trustee v. Hwang et al

**#6.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01393. Complaint by Peter J. Mastan, Chapter 7 Trustee against In Young Hwang, Twig & Twine, Inc., Danielle Steckler. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

In Young Hwang

Pro Se

Twig & Twine, Inc.

Pro Se

Danielle Steckler

Pro Se

DOES 1 through 10

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#7.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 4-21-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01399 Mastan, Chapter 7 Trustee v. Hwang

**#8.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01399. Complaint by Peter J. Mastan, Chapter 7 Trustee against Hyun Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 12-4-19; 2-11-20; 4-14-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 at 10:00 A.M.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the “Trustee”) commenced this fraudulent transfer action against Hyun Hwang (the “Defendant”) on September 14, 2019. On December 11, 2019, the Court denied the Defendant’s Motion to Dismiss, and ordered the Defendant to file an Answer by no later than January 21, 2020. Doc. No. 25. Defendant timely filed an Answer. The Trustee seeks leave to file a First Amended Complaint to allege an additional \$80,000 transfer from the Debtor to the Defendant.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In the event that Defendant declines to stipulate to the filing of a First Amended Complaint, the Trustee shall file a motion for leave to amend by no later than **March 10, 2020**.
- 2) A continued Status Conference is set for **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Hyun Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01400 Mastan, Chapter 7 Trustee v. Hwang et al

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01400. Complaint by Peter J. Mastan, Chapter 7 Trustee against Mirea Rea Hwang, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 11-26-19; 12-4-19; 2-11-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 AM.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the "Trustee") commenced this fraudulent transfer action against Mirea Rea Hwang (the "Defendant") on September 14, 2019. On December 4, 2019, the Court conducted a hearing on the Defendant's Motion to Dismiss. The Court found that adjudication of the Complaint would violate the automatic stay arising in the bankruptcy petition filed by Defendant's spouse, Kenny Hwang ("K. Hwang"). The Court ordered that the action would be stayed, unless and until the Trustee obtained relief from the automatic stay in K. Hwang's bankruptcy case.

The Trustee has not moved for stay relief in K. Hwang's bankruptcy case. A continued meeting of creditors in K. Hwang's bankruptcy case is set for February 12, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **May 12, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

CONT... **Keystone Textile, Inc.**  
hearing.

**Chapter 7**

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Mirea Rea Hwang

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01402 Mastan, Chapter 7 Trustee v. Hwang et al

**#10.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01402. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Trigen Int'l, Inc., Beyond Textile, Inc., Does 1 - 10, inclusive. (Charge To Estate). COMPLAINT FOR: (1) AVOIDANCE OF ACTUAL FRAUDULENT TRANSFERS [11 U.S.C. 544(b), 548(a)(1)(A), And 550(a), And Cal. Civ. Code §§ 3439.04(a) And 3439.07]; (2) AVOIDANCE OF CONSTRUCTIVE FRAUDULENT TRANSFERS [11 U.S.C. §§ 544(b), 548(a)(1) (B), And 550(a), And Cal. Civ. Code §§ 3439.04(b) Or 3439.05 And Cal. Civ. Code § 3439.07] (3) CONSPIRACY TO DEFRAUD [11 U.S.C. § 105(a)] (4) FOR RECOVERY OF ILLEGAL DIVIDENDS [Cal. Corp. Code §§ 500, 501 And 506] (5) FOR BREACH OF FIDUCIARY DUTY; AND (6) RECOVERY OF AVOIDED TRANSFER [11 U.S.C. § 550(a)] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

fr. 11-19-19; 2-11-20; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

4/13/2020:

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Prosecution of this avoidance action against Defendant Kenny Hwang was stayed by Hwang's filing of a Chapter 7 voluntary petition on September 19, 2019 (Case No. 2:19-bk-21045-BR). The Trustee voluntarily dismissed Defendants Trigen Int'l, Inc. and Beyond Textile, Inc. on March 11, 2020. Doc. Nos. 33-34. The Trustee has not moved for stay relief in Hwang's bankruptcy case.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

- 1) A continued Status Conference is set for **July 14, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Trigen Int'l, Inc.

Pro Se

Beyond Textile, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01403 Mastan, Chapter 7 Trustee v. K2 America, Inc. et al

**#10.10 Status Conference**

RE: [1] Adversary case 2:19-ap-01403. Complaint by Peter J. Mastan, Chapter 7 Trustee against K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; and (5) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01372 Mastan, Chapter 7 Trustee v. Romex Textiles, Inc.

**#11.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01372. Complaint by Peter J. Mastan, Chapter 7 Trustee against Romex Textiles, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-19-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/13/2020

Order entered. Status Conference continued to **March 17, 2020, at 10:00 a.m.** pursuant to stipulation.

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

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Romex Textiles, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, July 14, 2020

Hearing Room 1568

10:00 AM

2:17-21275 Tbetty, Inc.

Chapter 7

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#12.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fradulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20; 3-17-20; 4-21-20

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, July 14, 2020

Hearing Room 1568

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01396 Mastan, Chapter 7 Trustee v. Flintridge Preparatory School, Inc. et al

**#13.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01396. Complaint by Peter J. Mastan, Chapter 7 Trustee against Flintridge Preparatory School, Inc., Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 5-28-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Flintridge Preparatory School, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01404 Mastan, Chapter 7 Trustee v. Hwang et al

**#14.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01404. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Mirea Rea Hwang, Hyun Hwang, Tri Blossom, LLC, K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery from Subsequent Transferee [11 U.S.C. §§ 544, 548]; (5) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; (6) Conspiracy to Defraud [11 U.S.C. § 105(a)]; (7) For Recovery of Illegal Dividends [Cal. Corp. Code §§ 500, 501 and 506]; and (8) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Triplett, Meghann)

FR. 11-19-19; 12-4-19; 2-11-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 10:00 AM.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the "Trustee") filed this fraudulent transfer action against Kenny Hwang ("K. Hwang"), Mirea Hwang ("M. Hwang"), Hyun Hwang ("H. Hwang"), Tri Blossom, LLC, and K2 America, Inc. (collectively, the "Defendants") on September 15, 2019. On December 4, 2019, the Court conducted a hearing on a Motion to Dismiss brought by Defendants K. Hwang, M. Hwang, H. Hwang, and Tri Blossom LLC. The Court found that adjudication of the Complaint would violate the automatic stay arising in the bankruptcy petition filed K. Hwang. The Court ordered that the action would be stayed, unless and until the Trustee obtained relief from the automatic stay in K.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

Hwang's bankruptcy case.

The Trustee has not moved for stay relief in K. Hwang's bankruptcy case. A continued meeting of creditors in K. Hwang's bankruptcy case is set for February 12, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **May 12, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Hyun Hwang

Pro Se

Tri Blossom, LLC

Pro Se

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

Mi Rae Hwang

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-13973 Jesus Alberto Argueta**

**Chapter 7**

Adv#: 2:20-01111 Dye v. Argueta et al

**#15.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01111. Complaint by Carolyn Dye against Jose Guillermo Argueta, Veronica Carmen Gonzalez. (Charge To Estate). (Attachments: # 1 Summons # 2 Adversary Proceeding Cover Sheet) Nature of Suit: (14 (Recovery of money/property - other)) (Pena, Leonard)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Jesus Alberto Argueta

Represented By

Jennifer Ann Aragon - SUSPENDED -

**Defendant(s):**

Jose Guillermo Argueta

Pro Se

Veronica Carmen Gonzalez

Pro Se

Does 1 to 10

Pro Se

**Plaintiff(s):**

Carolyn Dye

Represented By

Leonard Pena

**Trustee(s):**

Carolyn A Dye (TR)

Represented By

Leonard Pena

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-14619 Roberto Kai Hegeler**

**Chapter 7**

Adv#: 2:18-01234 Maground, GmbH v. Hegeler

**#16.00** Status Hearing

RE: [1] Adversary case 2:18-ap-01234. Complaint by Maground, GmbH against Roberto Kai Hegeler. 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)) (Barsness, Christopher)

FR. 12-18-18; 8-7-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/13/2020

On March 1, 2018, Maground, GmbH ("Plaintiff") commenced a complaint against Roberto Kai Hegeler (the "Debtor/Defendant") in the United States District Court for the Central District of California (the "District Court"), asserting claims for trademark infringement pursuant to 15 U.S.C. §§ 1114 and 1125(a), trademark dilution pursuant to 15 U.S.C. § 1125(c), unfair competition and false advertising pursuant to 15 U.S.C. § 1125(a), cybersquatting pursuant to 15 U.S.C. § 1125(d), common law trademark infringement, breach of contract, conversion, and violations of Cal. Bus. & Prof. Code §§ 14247, 17200, and 17500 (the "District Court Action"). *See* Maground, GmbH v. Roberto Kai Hegeler and Maground, LLC (Doc. No. 1, Case No. 2:18-cv-01760-CJC-JC). On April 23, 2018, Debtor/Defendant filed a voluntary Chapter 7 petition. On May 4, 2018, the District Court stayed the District Court Action pending resolution of Debtor/Defendant's bankruptcy proceeding.

On July 23, 2018, Plaintiff commenced an action against Debtor/Defendant in the Bankruptcy Court (the "Non-Dischargeability Action"). On December 17, 2018, the Bankruptcy Court entered an order (1) *sua sponte* lifting the automatic stay to permit the District Court Action to proceed and (2) staying the Non-Dischargeability Action until entry of a final, non-appealable judgment in the District Court Action. Doc. No. 19 (the "Stay Order"). The Stay Order provided:

The most efficient way to resolve the Non-Dischargeability Action is for Plaintiff to first prosecute the District Court Action to final judgment. In the event

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**Roberto Kai Hegeler**

**Chapter 7**

Plaintiff obtains judgment in its favor, Plaintiff may then return to the Bankruptcy Court to obtain a determination regarding whether such judgment is dischargeable. The District Court is better equipped than this Court to determine whether Defendant is indebted to Plaintiff on account of the allegations for trademark infringement, trademark dilution, and cybersquatting, all of which require the application of substantive non-bankruptcy law.

Stay Order at ¶ 3.

Trial in the District Court Action is set for November 3, 2020. Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **July 14, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which shall discuss the status of the District Court Action, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Roberto Kai Hegeler

Represented By  
Kirk Brennan

**Defendant(s):**

Roberto Kai Hegeler

Pro Se

**Plaintiff(s):**

Maground, GmbH

Represented By  
Christopher C Barsness

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Roberto Kai Hegeler**

**Chapter 7**

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20111 Jeremy Wyatt LeClair**

**Chapter 7**

Adv#: 2:18-01276 LeClair v. United States Of America (Treasury Department, Int

**#17.00 Status Hearing**

RE: [1] Adversary case 2:18-ap-01276. Complaint by Jeremy Wyatt LeClair against United States Of America (Treasury Department, Internal Revenue Service Division) . (Charge To Estate). Nature of Suit: (66 (Dischargeability - 523(a) (1),(14),(14A) priority tax claims)). Adversary transferred-in from Western District of North Carolina (Charlotte) and Adversary Proceeding #: 18-03043 to Central District of California (Los Angeles). (Ly, Lynn) Additional attachment(s) added on 8/30/2018 (Ly, Lynn). Additional attachment(s) added on 8/30/2018 (Ly, Lynn).

fr: 12-11-18; 5-14-19; 9-10-19; 3-10-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:000 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Defendant(s):**

United States Of America (Treasury

Pro Se

**Plaintiff(s):**

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-24265 Neilla M Cenci**

**Chapter 7**

Adv#: 2:19-01065 BALL C M, Inc. v. Cenci et al

**#18.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01065. Complaint by BALL C M, Inc. against Neilla M Cenci. 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)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Slates, Ronald)

FR. 5-14-19; 8-13-19; 1-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

1/13/2020

On June 28, 2019, the Clerk of the Court entered Defendant's default. On July 16, 2019, the Court granted Plaintiff relief from the automatic stay, to enable Plaintiff to continue litigating the underlying State Court Action through which Plaintiff intends to establish the indebtedness alleged to be non-dischargeable. Plaintiff has represented that a judgment in the State Court Action will assist Plaintiff in presenting a Motion for Default Judgment to this Court. Litigation of the State Court Action remains ongoing.

Having reviewed Plaintiff's Unilateral Status Report, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall take place on **July 14, 2020, at 10:00 a.m.**
- 2) By no later than fourteen days prior to the hearing, Plaintiff shall file a Unilateral Status Report, which shall discuss the status of the State Court Action.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Hearing Room 1568**

10:00 AM

**CONT... Neilla M Cenci Chapter 7**

opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Neilla M Cenci

Represented By  
James R Selth

**Defendant(s):**

Neilla M Cenci

Pro Se

DOES 1 through 100, inclusive

Pro Se

**Plaintiff(s):**

BALL C M, Inc.

Represented By  
Ronald P Slates

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, July 14, 2020

Hearing Room 1568

10:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#19.00 Status Hearing to monitor the parties' compliance with the Mediation Order**  
RE: [1] Adversary case 2:19-ap-01137. Complaint by G-Sight Solutions, LLC against Ryan James McMillin, G-Sight Solutions, Inc., a California Corporation. 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)),(14 (Recovery of money/property - other)) (Zshornack, Errol)

fr: 8-13-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-7-20**

**Tentative Ruling:**

9/23/2019

See Cal. No. 2, below, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Pro Se

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Pro Se

G-Sight Solutions, LLC, a California

Pro Se

**Trustee(s):**

Heide Kurtz (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Hearing Room 1568**

10:00 AM

**CONT... Ryan James McMillin**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-19064 2379 Westwood Group Inc.**

**Chapter 7**

Adv#: 2:20-01094 Ehrenberg, Chapter 7 Trustee v. Levy

**#20.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01094. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against David Levy, David Levi. (Charge To Estate). Complaint For: (1) Avoidance Of Voidable Transfer Pursuant To 11 U.S.C. §§ 544, 548 And Cal. Civ. Code § 3439.04; (2) Recovery Of Transfer Or Value Thereof Pursuant To 11 U.S.C. § 550; (3) Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551; And (4) Turnover Of Property Pursuant To 11 U.S.C. § 542 Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Wu, Claire)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

2379 Westwood Group Inc.

Represented By  
Linda M Blank

**Defendant(s):**

David Levy

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Claire K Wu

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Claire K Wu

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23371 Jose Juan Cabrera**

**Chapter 7**

Adv#: 2:20-01105 United States Trustee for the Central District of v. Cabrera

**#21.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01105. Complaint by United States Trustee for the Central District of California, Region 16 against Jose Juan Cabrera. (Fee Not Required). for Revocation of Discharge pursuant to 11 U.S.C. Sec. 727(d)(4)(B) (Attachments: # 1 Summons) Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Yip, Hatty)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

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

Jose Juan Cabrera	Pro Se
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**Defendant(s):**

Jose Juan Cabrera	Pro Se
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**Plaintiff(s):**

United States Trustee for the Central	Represented By Hatty K Yip
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**Trustee(s):**

Howard M Ehrenberg (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
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**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10675 Juan Carlos Reynoso Hernandez**

**Chapter 7**

Adv#: 2:20-01102 United States Trustee for the Central District of v. Hernandez

**#22.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01102. Complaint by United States Trustee for the Central District of California, Region 16 against Juan Carlos Reynoso Hernandez. (Fee Not Required). for Denial of Discharge pursuant to 11 U.S.C. Sec. 727(a)(4) and 727(d)(4)(B) (Attachments: # 1 Summons) Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Yip, Hatty)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-10-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Juan Carlos Reynoso Hernandez

Represented By  
Rhonda Walker

**Defendant(s):**

Juan Carlos Reynoso Hernandez

Pro Se

**Plaintiff(s):**

United States Trustee for the Central

Represented By  
Hatty K Yip

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10987 Steve Lewis**

**Chapter 7**

Adv#: 2:20-01114 LANGLOIS FAMILY LAW APC v. LEWIS

**#23.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01114. Complaint by Langlois Family Law, LANGLOIS FAMILY LAW against STEVE LEWIS. (d),(e)) (Bowen, Ray)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 7/7/20**

**Tentative Ruling:**

- NONE LISTED -

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

Steve Lewis

Represented By  
Allan D Sarver

**Defendant(s):**

STEVE LEWIS

Pro Se

**Plaintiff(s):**

LANGLOIS FAMILY LAW APC

Represented By  
Ray B Bowen Jr

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#24.00 Status Hearing**

RE: [30] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property)),91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19; 12-19-19; 1-8-20; 2-19-20 ; 4-14-20

Docket 30

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, July 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Defendant(s):**

U.S. Bank National Association

Represented By  
Jason D Strabo  
Clark Whitmore  
Jason M Reed  
Megan Preusker  
Nathan F Coco  
Mark Shinderman

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
James Cornell Behrens  
Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#25.00 TELEHONIC Status Hearing**

RE: [28] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property)),91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19; fr. 12-19-19; 1-8-20; 2-19-20; 4-14-20

Docket 28

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

4/13/2020

Order entered. Status Conference **CONTINUED to July 14, 2020, at 10:00 a.m.**

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Represented By  
Abigail V O'Brient

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14485 Michael Stuart Brown**

**Chapter 11**

**#26.00** Status Hearing re Initial Status Conference Pursuant To 11 U.S.C. 1188 (Subchapter V).

RE: [17] Addendum to voluntary petition

Docket 17

**Tentative Ruling:**

7/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Court has reviewed the Debtor's *Subchapter V Status Report* [Doc. No. 34], and for the reasons set forth below, a continued Status Conference shall take place on **October 14, 2020, at 10:00 a.m.**, concurrently with the Confirmation Hearing. The continued Status Conference will provide the Debtor an opportunity to brief the Court on any matters affecting the expeditious and economical resolution of the case. The Debtor shall file a brief Status Report by no later than **September 30, 2020**. Additionally, subject to any objections, the dates and deadlines established below will apply to the solicitation and confirmation of the Debtor's Plan.

**Pleadings Filed and Reviewed:**

- 1) Debtor's Subchapter V Status Report [Doc. No. 34] (the "Status Report")
- 2) Notice of Motion and Motion in Individual Chapter 11 Case for Order Authorizing Debtor in Possession to Employ Professional (Other than General Bankruptcy Counsel) [Doc. No. 31]
- 3) Chapter 11 Voluntary Petition [Doc. Nos. 1 and 11]
- 4) Addendum to Voluntary Petition [Doc. No. 17]
- 5) Amended Voluntary Petition [Doc. No. 25]
- 6) As of the preparation of this tentative ruling, no response or opposition is on file

**United States Bankruptcy Court  
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Los Angeles  
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**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

CONT... **Michael Stuart Brown**

**Chapter 11**

**I. Facts and Summary of Pleadings**

Michael Stuart Brown (the “Debtor”) commenced a voluntary chapter 11 petition on May 15, 2020. The Debtor is the owner and managing partner of California Lawyers Group, LLP. Amended Petition [Doc. No. 25] at 8. On his commencement documents, the Debtor lists an ownership interest in his private residence located at 2089 Stradella Road, Los Angeles, California 90077 (the “Property”). The Property is encumbered by three security interests held by JP Morgan Chase Bank, N.A. (“JP Morgan”), CitiMortgage Inc. (“Citibank”), and Matt Hayden (“Hayden”) (in order of priority), as well as a tax lien in favor of the Los Angeles County Treasurer and Tax Collector.

The amended schedules [Doc. No. 25] indicate that the Debtor is or was recently a party in at least three different state court actions:

- *Michael S. Brown v. Sun Outdoor Advertising, LLC*;
- *Michael Brown v. JP Morgan Chase, Citibank, et al.*;
- The Debtor recently sustained an adverse state court judgment totaling \$1,400,000 awarded to McIntosh & Associates (“McIntosh”).

On June 1, 2020, the Debtor entered an addendum to the petition, on which he elected to proceed under Subchapter V of chapter 11 [Doc. No. 17]. No objection to the Subchapter V election is on file. The Debtor timely submitted the Status Report on June 30, 2020 [Doc. No. 34]. The Status Report makes the following representations concerning Debtor’s financial obligations and efforts to successfully reorganize his debts:

At this time, the Debtor expects to timely submit a chapter 11 plan, but he cannot determine whether the plan will be consensual or non-consensual. The uncertainty revolving around Debtor’s plan arises from a dispute with JP Morgan and Citibank concerning the Property’s title [Note 1] and the precise amount of arrears. The Debtor is currently negotiating a resolution with both JP Morgan and Citibank. In addition, the Debtor is in discussions with McIntosh over the total amount of its unsecured claim.

The Court further notes that Debtor’s has taken appropriate steps to proceed with his reorganization. He has secured an order employing general bankruptcy counsel, while a separate application to employ special litigation counsel is currently outstanding. The deadline to file a proof of claim has been set for July 24, 2020 [Doc. No. 32].

As of the preparation of this tentative ruling, no response or opposition is on file.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, July 14, 2020**

**Hearing Room 1568**

10:00 AM

CONT... **Michael Stuart Brown**

**Chapter 11**

**II. Findings and Conclusions**

Section 1188 of the recently-enacted Subchapter V of chapter 11 provides that the court “shall hold a status conference to further the expeditious and economical resolution of a case,” not later than 60 days after the entry of the order for relief.

No appearance is required if submitting on the court’s tentative ruling. This is the Initial Subchapter V Status Conference. Having reviewed the Status Report, the commencement documents, and all other relevant pleadings, the Court is prepared to set a continued Status Conference on **October 14, 2020 at 10:00 a.m.** The Debtor shall file a brief Status Report by no later than **September 30, 2020.**

Additionally, subject to any objection, the Court is further prepared to set the following dates and deadlines regarding solicitation and confirmation of the Debtor’s Plan:

1. A hearing will be held on the confirmation of the Debtor’s Plan on **October 14, 2020, at 10:00 a.m.**
2. The Plan shall be filed and served by no later than **August 13, 2020**, pursuant to Section 1189 of the Bankruptcy Code.
3. A notice of hearing on confirmation of the Plan and, if applicable, a ballot conforming to Official Form No. 14, shall be mailed to all creditors, equity security holders and to the Office of the United States Trustee by no later than **August 20, 2020.**
4. **September 18, 2020** is fixed as the last day for creditors and equity security holders to return to Debtor’s counsel ballots containing written acceptances or rejections of the Plan, which ballots must be actually received by Debtor’s counsel by 5:00 p.m. on such date.
5. **September 23, 2020** is fixed as the last day on which the Debtor must file and serve a motion for an order confirming the Plan (the "Confirmation Motion") including declarations setting forth a tally of the ballots cast with respect to the Plan ("Ballots"), and attaching thereto the original Ballots, and setting forth evidence that the Debtor has complied with all the requirements for the

**United States Bankruptcy Court  
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**Tuesday, July 14, 2020**

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10:00 AM

CONT...

**Michael Stuart Brown**

**Chapter 11**

confirmation of the Plan as set forth in Sections 1190 and 1191 of the Bankruptcy Code.

6. **September 30, 2020** (the "Objection Date") is fixed as the last day for filing and serving written objections to confirmation of the Plan.
7. **October 7, 2020** is fixed as the last day on which the Debtor may file and serve a reply to any opposition to the Confirmation Motion ("Reply").
8. An order confirming the plan must be entered by no later than **November 11, 2020**, unless otherwise ordered by the Court.

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor fails to describe the nature of his title dispute in detail. Based on the Status Report and application to employ special counsel [Doc. No. 31], the Court understands that the Debtor alleges that a wrongful foreclosure proceeding was initiated against him, in which a third party purchased the Property. In addition to JP Morgan and Citibank, the Debtor avers that he is currently discussing a consensual agreement with said purchaser.

**Party Information**

**Debtor(s):**

Michael Stuart Brown

Represented By  
Michael F Chekian

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01403 Mastan, Chapter 7 Trustee v. K2 America, Inc. et al

**#100.00 Status Conference**

RE: [1] Adversary case 2:19-ap-01403. Complaint by Peter J. Mastan, Chapter 7 Trustee against K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; and (5) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE WILL BE  
HEARD AT 10:00 A.M. TODAY**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

Adv#: 2:19-01290 Goodrich v. Liu

**#101.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01290. Complaint by David M. Goodrich against Nancy Liu. (Charge To Estate). Complaint for Declaratory Relief Nature of Suit: (91 (Declaratory judgment)) (Gaschen, Beth)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 12-16-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Defendant(s):**

Nancy Liu

Pro Se

**Plaintiff(s):**

David M. Goodrich

Represented By  
Beth Gaschen

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Tuesday, July 14, 2020

Hearing Room 1568

11:00 AM

**2:18-11795 Alana Gershfeld**

**Chapter 7**

Adv#: 2:19-01052 Dye v. Khasin et al

**#102.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01052. Complaint by Carolyn A Dye against Maria Khasin, Larry A. Khasin, M & L Living Trust. (Charge To Estate). Complaint: (1) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. §§ 544 And 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; And,(3) Automatic Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Gonzalez, Rosendo)

FR. 1-14-20; FR 7-16-19; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Alana Gershfeld

Represented By  
Alla Tenina

**Defendant(s):**

Maria Khasin

Pro Se

Larry A. Khasin

Pro Se

M & L Living Trust

Pro Se

**Plaintiff(s):**

Carolyn A Dye

Represented By  
Rosendo Gonzalez

**Trustee(s):**

Carolyn A Dye (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Alana Gershfeld**

Rosendo Gonzalez

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-12437 Wardine Bridges**

**Chapter 7**

Adv#: 2:19-01336 Rund v. Rosborough

**#103.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01336. Complaint by Jason M. Rund against Mary Rosborough. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Chung, Toan)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 3-11-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Wardine Bridges	Pro Se
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**Defendant(s):**

Mary Rosborough	Pro Se
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**Plaintiff(s):**

Jason M. Rund	Represented By Toan B Chung
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**Trustee(s):**

Jason M Rund (TR)	Represented By Toan B Chung
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#104.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

FR. 2-11-20; 5-12-20

Docket 1

\*\*\* VACATED \*\*\* REASON: DISMISSED 6-4-20

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... John F Gallardo**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-16649 Christopher Todd Altpeter**

**Chapter 7**

Adv#: 2:19-01296 United States Of America v. Altpeter

**#105.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01296. Complaint by United States Of America against Christopher Todd Altpeter. (Fee Not Required). Nature of Suit: (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)) (Levey, Elan)

Docket 1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT ENTERED 2-21-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Christopher Todd Altpeter

Represented By  
Harriet L. Goldfarb

**Defendant(s):**

Christopher Todd Altpeter

Pro Se

**Plaintiff(s):**

United States Of America

Represented By  
Elan S Levey

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-16657 Ronald K. Perry**

**Chapter 7**

Adv#: 2:19-01335 Huang v. Perry

**#106.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01335. Complaint by Sander Huang against Ronald K. Perry. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(14 (Recovery of money/property - other)) (Madala, Naveen)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-21-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ronald K. Perry

Represented By  
Steven B Lever

**Defendant(s):**

Ronald K. Perry

Pro Se

**Plaintiff(s):**

Sander Huang

Represented By  
Naveen Madala

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01411 Fernando v. Salamat et al

**#107.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01411. Complaint by Angela Sandra Legaspi Fernando against Marlon Camar Salamat, Daisy Anne Boiser Salamat. 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)),(91 (Declaratory judgment)) (Smyth, Stephen)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto

**Defendant(s):**

Marlon Camar Salamat

Pro Se

Daisy Anne Boiser Salamat

Pro Se

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto

**Plaintiff(s):**

Angela Sandra Legaspi Fernando

Represented By  
Stephen S Smyth

**Trustee(s):**

Timothy Yoo (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, July 14, 2020

Hearing Room 1568

11:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01416 Linsangan v. Salamat et al

**#108.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01416. Complaint by Maria Linsangan against Marlon Camar Salamat, Daisy Anne Boiser Salamat. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Rodriguez, Sergio)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto

**Defendant(s):**

Marlon Salamat

Pro Se

Daisy Salamat

Pro Se

DOES 1-10, Inclusive

Pro Se

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto

**Plaintiff(s):**

Maria Linsangan

Represented By  
Sergio A Rodriguez

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-17235 Ruben Lino Zuniga**

**Chapter 7**

Adv#: 2:19-01415      Nesse et al v. Zuniga

**#109.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01415. Complaint by Brian Nesse, Darrell Klotzbach, Chan Klotzbach against Ruben Lino Zuniga. false pretenses, false representation, actual fraud)) (Nichani, Vinod)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 5-27-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ruben Lino Zuniga

Represented By  
Raymond J Bulaon

**Defendant(s):**

Ruben L Zuniga

Pro Se

**Plaintiff(s):**

Brian Nesse

Represented By  
Vinod Nichani

Darrell Klotzbach

Represented By  
Vinod Nichani

Chan Klotzbach

Represented By  
Vinod Nichani

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#110.00** Pre-Trial Conference  
RE: [30] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property)),91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

Docket 30

**\*\*\* VACATED \*\*\* REASON: CONTINUED10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

U.S. Bank National Association

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Jason D Strabo  
Clark Whitmore  
Jason M Reed  
Megan Preusker  
Nathan F Coco  
Mark Shinderman

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
James Cornell Behrens  
Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#111.00** Pre-Trial Conference

RE: [28] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property)),91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

Docket 28

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Abigail V O'Brient

**Plaintiff(s):**

Official Committee of Unsecured

Represented By

Mark Shinderman

Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01441 United International Mortgage Solutions, Inc. v. KAPLAN & SIMON, LLP,

**#112.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01441. Complaint by United International Mortgage Solutions, Inc. against KAPLAN & SIMON, LLP, A Limited Liability Partnership. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12/31/19**

**Tentative Ruling:**

- NONE LISTED -

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

United International Mortgage	Represented By Matthew D. Resnik Roksana D. Moradi-Brovia
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**Defendant(s):**

KAPLAN & SIMON, LLP, A	Pro Se
All Persons Or Entities Unknown	Pro Se
DOES 1 to 10 Inclusive	Pro Se

**Plaintiff(s):**

United International Mortgage	Represented By Matthew D. Resnik
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

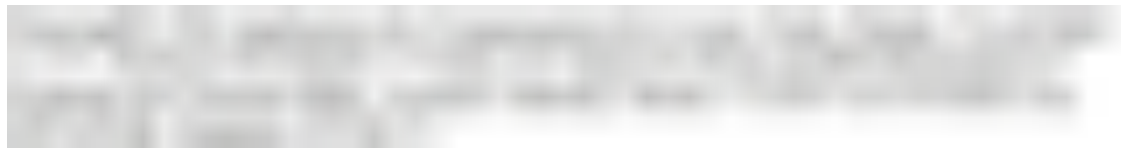
Hearing Room 1568

10:00 AM

2:17-17843 Berger Bros., Inc.

Chapter 7

#1.00



Docket No: 94

**Tentative Ruling:**



**Party Information**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Berger Bros., Inc.**

**Chapter 7**

**Debtor(s):**

Berger Bros., Inc.

Represented By  
Dean G Rallis Jr

**Trustee(s):**

Heide Kurtz (TR)

Represented By  
Timothy J Yoo  
Carmela Pagay

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

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10:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01416 Linsangan v. Salamat et al

**#2.00**



Docket No: 1

**Tentative Ruling:**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT...**

**Marlon Camar Salamat**

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

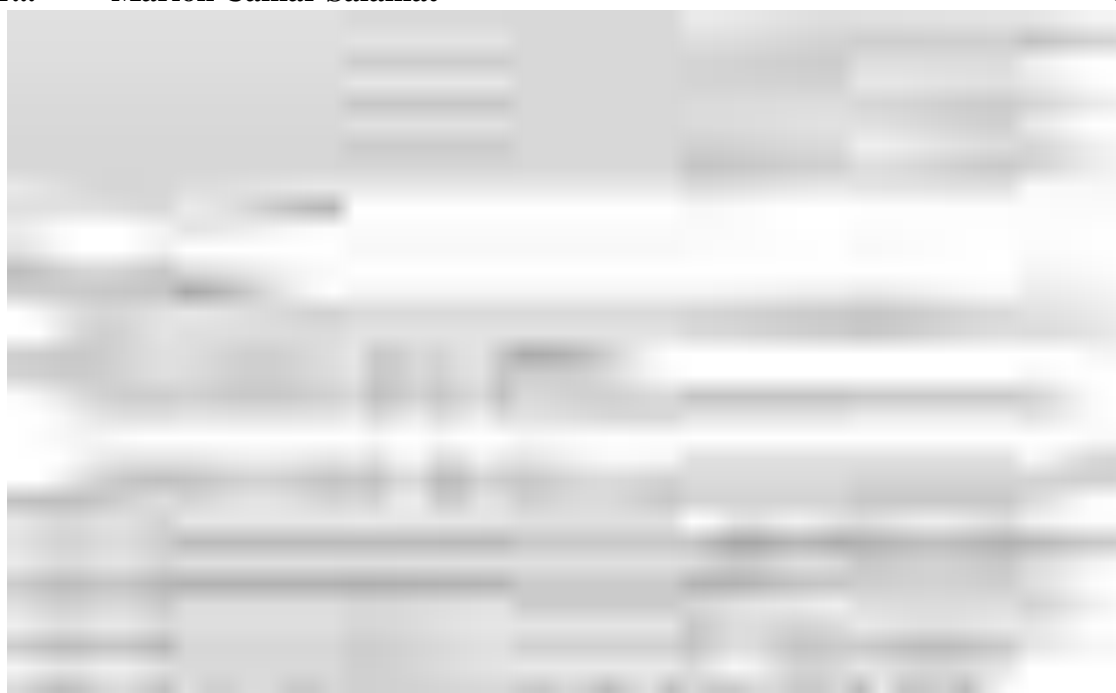
Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

CONT... Marlon Camar Salamat

Chapter 7



**Party Information**

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto  
David Brian Lally

**Defendant(s):**

Marlon Salamat

Represented By  
David Brian Lally

Daisy Salamat

Represented By  
David Brian Lally

DOES 1-10, Inclusive

Pro Se

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**

Michelle A Marchisotto  
David Brian Lally

**Plaintiff(s):**

Maria Linsangan

Represented By  
Sergio A Rodriguez  
David Brian Lally

**Trustee(s):**

Timothy Yoo (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#3.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#4.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#5.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#6.00



Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

**Tentative Ruling:**



**Party Information**

**Debtor(s):**

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

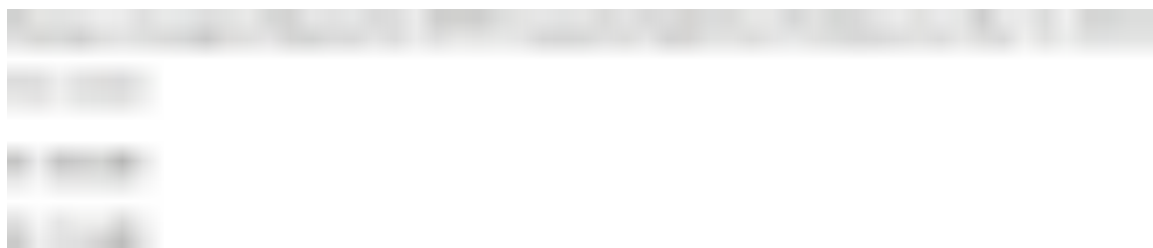
Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#7.00



Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:



Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#8.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-29-20 AT 10:00 A.M.

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

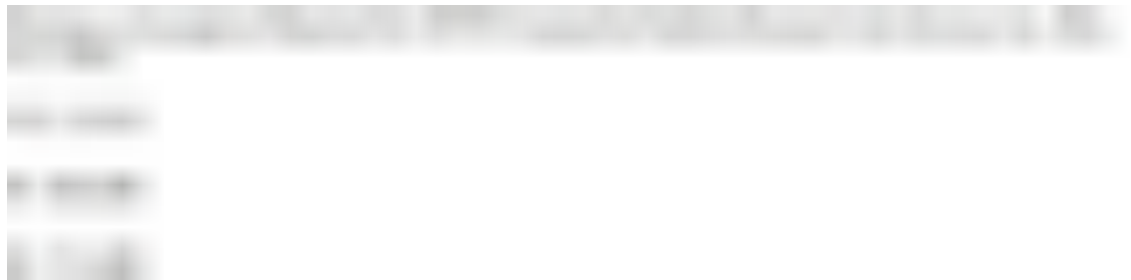
Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#9.00



Docket No: 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20**

**Tentative Ruling:**



**Party Information**

**Debtor(s):**

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#10.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

**Party Information**

**Debtor(s):**

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#11.00



Docket No: 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20**

**Tentative Ruling:**



**Party Information**

**Debtor(s):**

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

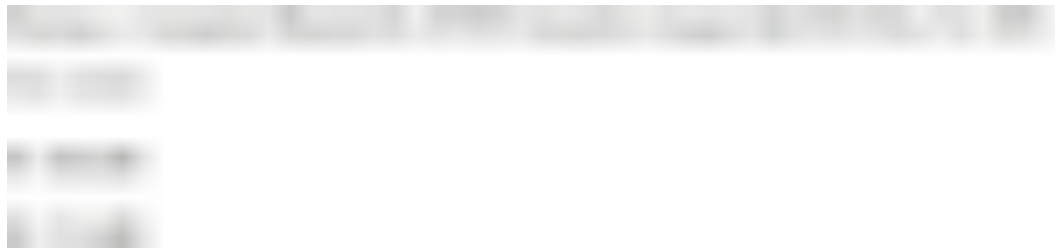
Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#12.00



Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

**Tentative Ruling:**



**Party Information**

**Debtor(s):**

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#13.00



Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:



Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#14.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

**Tentative Ruling:**

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

**Debtor(s):**

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#15.00

Docket No: 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20**

**Tentative Ruling:**

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

**Debtor(s):**

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#16.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#17.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-29-20 AT 10:00 A.M.

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#18.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#19.00

■  
[REDACTED]

Docket No: 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-29-20 AGT 10:00 A.M.

Tentative Ruling:

[REDACTED]

**Party Information**

**Debtor(s):**

Verity Health System of California, Inc

Represented By

Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#20.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 7-29-20 AGT 10:00 A.M.

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#21.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#22.00

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#22.10

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#22.20

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#22.30

Docket No: 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

Tentative Ruling:

Party Information

Debtor(s):

Verity Health System of California, Inc

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

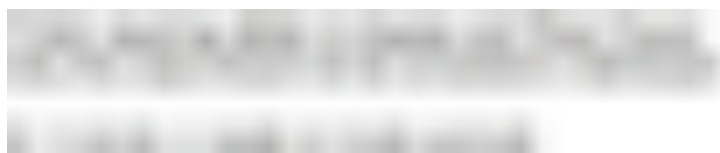
Hearing Room 1568

10:00 AM

2:18-20698 United International Mortgage Solutions, Inc.

Chapter 11

#23.00



Docket No: 0

**Tentative Ruling:**



**Party Information**

**Debtor(s):**

United International Mortgage Solution

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

Hearing Room 1568

---

10:00 AM

2:19-13797 Liboria Zavalza

Chapter 11

#24.00



Docket No: 79

**Tentative Ruling:**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT...**

**Liboria Zavalza**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT...**

**Liboria Zavalza**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Liboria Zavalza**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Liboria Zavalza**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT...**

**Liboria Zavalza**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Liboria Zavalza**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Liboria Zavalza**

**Chapter 11**





**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Liboria Zavalza**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

---

10:00 AM

CONT...

**Liboria Zavalza**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Liboria Zavalza**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

CONT...

**Liboria Zavalza**

**Chapter 11**



**Party Information**

**Debtor(s):**

Liboria Zavalza

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:19-21593 C & F Sturm, LLC

Chapter 11

#25.00

Docket No: 49

**Tentative Ruling:**



**Party Information**

**Debtor(s):**

C & F Sturm, LLC

Represented By  
Stella A Havkin

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

Wednesday, July 15, 2020

Hearing Room 1545

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10:00 AM

**2:20-14808 SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**

**#26.00**

■  
[REDACTED]

Docket No: 0

**Tentative Ruling:**

[REDACTED]

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

**Wednesday, July 15, 2020**

**Hearing Room 1545**

---

10:00 AM

**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**



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

**Wednesday, July 15, 2020**

**Hearing Room 1545**

---

10:00 AM

**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**





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

**Wednesday, July 15, 2020**

**Hearing Room 1545**

---

10:00 AM

**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**



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

**Wednesday, July 15, 2020**

**Hearing Room 1545**

---

10:00 AM

**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**



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

**Wednesday, July 15, 2020**

**Hearing Room 1545**

---

10:00 AM

**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**



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

Wednesday, July 15, 2020

Hearing Room 1545

10:00 AM

CONT... SCHREINER'S FINE SAUSAGES, INC.

Chapter 11



**Party Information**

**Debtor(s):**

SCHREINER'S FINE SAUSAGES, IN

Represented By  
Robert B Rosenstein

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:17-17843 Berger Bros., Inc.

Chapter 7

#27.00

Docket No: 96

**Tentative Ruling:**



**Party Information**

**Debtor(s):**

Berger Bros., Inc.

Represented By  
Dean G Rallis Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Berger Bros., Inc.**

**Chapter 7**

**Trustee(s):**

Heide Kurtz (TR)

Represented By  
Timothy J Yoo  
Carmela Pagay

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

Hearing Room 1568

10:00 AM

2:17-17843 Berger Bros., Inc.

Chapter 7

#28.00



Docket No: 100

**Tentative Ruling:**



**Party Information**

**Debtor(s):**

Berger Bros., Inc.

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Berger Bros., Inc.**

**Chapter 7**

Dean G Rallis Jr

**Trustee(s):**

Heide Kurtz (TR)

Represented By  
Timothy J Yoo  
Carmela Pagay



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-16549 Lynn M. Vargas**

**Chapter 11**

**#100.00**



Docket No: 139

**Tentative Ruling:**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 15, 2020

Hearing Room 1568

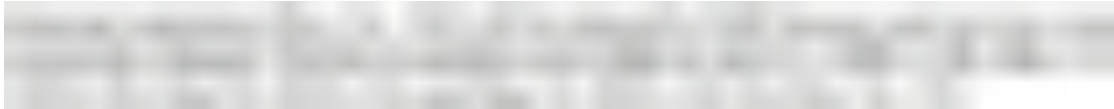
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11:00 AM

CONT...

Lynn M. Vargas

Chapter 11



**Party Information**

**Debtor(s):**

Lynn M. Vargas

Represented By  
Hatty K Yip  
Michael Jay Berger

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Wednesday, July 15, 2020

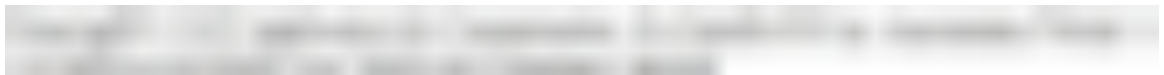
Hearing Room 1568

11:00 AM

2:19-16549 Lynn M. Vargas

Chapter 11

#101.00



Docket No: 143

**Tentative Ruling:**



**Party Information**

**Debtor(s):**

Lynn M. Vargas

Represented By  
Hatty K Yip

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 15, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Lynn M. Vargas**

Michael Jay Berger

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 20, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15655 Luis Lopez and Alejandra Morales**

**Chapter 7**

**#1.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 CHEVROLET CAMARO, VIN: 2G1F D3D3 XF92 22735 .

Docket 8

**Tentative Ruling:**

7/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 20, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Luis Lopez and Alejandra Morales**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Luis Lopez

Represented By  
Jaime A Cuevas Jr.

**Joint Debtor(s):**

Alejandra Morales

Represented By  
Jaime A Cuevas Jr.

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 20, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing  
RE: [4944] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: Lease Equipment .  
(Goldberg, Marshall)

Docket 4944

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-3-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-17841 Soul Hollywood, LLC**

**Chapter 7**

- #1.00** HearingRE: [41] Motion Chapter 7 Trustees Motion for Order: (1) Determining That Buyer is in Default of Agreement For Purchase of Estate's Right, Title, and Interest in Alcoholic Beverage Control License; and (2) Directing the Termination of Escrow and the Release of Buyer's Deposit to the Trustee; Memorandum of Points and Authorities; Declarations of Howard M. Ehrenberg and Jason B. Kho in Support Thereof, with proof of service, (Wu, Claire)

Docket 41

**Tentative Ruling:**

7/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED IN PART as follows: (1) in light of the Buyer's default, the escrow is terminated; (2) the Trustee is entitled to reasonable attorneys' fees and costs in the sum of \$4,655, which shall be deducted from the Deposit; and (3) the remainder of the Deposit shall be returned to the Buyer, subject to any additional costs, fees, and expenses contemplated in the Agreement.

**Pleadings Filed and Reviewed:**

- 1) Chapter 7 Trustee's Motion for Order: (1) Determining that Buyer is in Default of Agreement for Purchase of Estate's Right, Title, and Interest in Alcoholic Beverage Control License; and (2) Directing the Termination of Escrow and the Release of Buyer's Deposit to the Trustee [Doc. No. 41] (the "Motion")
  - a) Notice [Doc. No. 42]
- 2) Order Approving Chapter Trustee's Motion to Sell Estate's Interest in Alcoholic Beverage Control License [Doc. No. 34]



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Soul Hollywood, LLC**

**Chapter 7**

- 3) Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Estate's Right, Title, and Interest in Alcoholic Beverage Control License; (2) Determining that Buyer is a Good Faith Purchaser; (3) Approving Overbid Procedures; (4) Waiving the Fourteen (14) Day Stay Prescribed by Rule 6004(h) of the Federal Rules of Bankruptcy Procedure [Doc. No. 29] (the "Sale Motion")
- 4) As of the date of this tentative ruling, no opposition is on file

### **I. Facts and Summary of Pleadings**

Soul Hollywood, LLC (the "Debtor") commenced a voluntary chapter 7 petition on July 5, 2019 (the "Petition Date"). The Debtor owned and operated a restaurant business as of the Petition Date. One of the assets scheduled by the Debtor was a Type 47 On-Sale General Eating Place Liquor License #47-558177 (the "Liquor License"). On November 19, 2019, Howard Ehrenberg, the chapter 7 trustee (the "Trustee"), obtained an order approving the sale of the Liquor License to Flora LA, LLC (the "Buyer") for \$90,000 (the "Sale").

On June 30, 2020, the Trustee filed the instant Motion [ Doc. No. 41]. The issue presently before the Court arises from the Buyer's inability to adhere to the sale terms set forth in the underlying escrow instructions, and its subsequent refusal to execute a cancellation of escrow on request of the Trustee. The Buyer did not oppose the Motion. In support of the Motion, the Trustee asserts the following arguments and representations:

The Sale was approved by this Court subject to the terms and conditions stated in the *Escrow Instructions for Sale of Alcoholic Beverage Control License* (the "Agreement"), a copy of which has been attached as Exhibit 1 of the Motion. The relevant terms of the Agreement as they pertain to the Motion are as follows:

**Total Purchase Price of said license shall be the sum of \$90,000.00**

Payable as follows:

Initial Deposit	\$9,000.00
Deposit Prior to Close of Escrow	\$81,000.00
Total Cash Thru	\$90,000.00

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**TOTAL CONSIDERATION      \$90,000.00**

*See* Agreement, Cover Page (bottom half) [Motion at 16]. The Agreement requires the Buyer to tender the full \$90,000 purchase price to California Business Escrow, Inc. (“Escrow”) within 30 days of the filing of the California Department of Alcoholic Beverage Control (“ABC”) license application:

Within the latter of thirty days after application has been filed with the Department of Alcoholic Beverage Control or any extension [*sic*] of the filing period set forth in Section 24074.3 of the Business and Professions Code of the

State of California, the Buyer/Transferee will cause to be handed to Escrow Holder the full amount of the Purchase Price as set out above, and any and all additional funds required by Escrow Holder to complete said transaction.

Escrow

Holder is instructed to then execute and forward ABC form 226 to the Department of Alcoholic Beverage Control, indicating that the consideration has been deposited into escrow.

*See* Agreement, ¶ 6. Here, the ABC accepted the license application on December 30, 2019, and no extension period under Section 24074.3 was ever approved [**Note 1**]. Accordingly, the deadline for the Buyer to tender the full sum of the purchase price to Escrow was January 30, 2020. The Buyer’s inability to fully fund the escrow account to date has resulted in its default of the Agreement. Based on the declaration of Jason Kho (“Kho”), the broker of the Liquor License, the Trustee understands that the financial exigencies caused by the COVID-19 pandemic resulted in the Buyer being unable to complete a construction build as scheduled. Therefore, the Buyer was incapable of closing escrow, nor will it be in a position to do so in the near future. *See* Kho Decl., ¶ 8.

Furthermore, the Buyer has refused to execute the cancellation of the Agreement and authorize the release of the \$9,000 deposit amount (the “Deposit”). Because the Trustee is the non-defaulting party here, the Deposit is now property of the estate. The Trustee believes that the Buyer does not have the intention to cancel escrow and release the Deposit, meaning that the Deposit will be maintained in escrow for approximately 3 years and then released to the government. *See* Kho Decl., ¶ 9.

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Pursuant to §§ 363, 541, and 105(a), the Trustee requests that the Court (i) find the Buyer in default, (ii) direct Escrow to terminate the Agreement, and (iii) release the Deposit. Section 105(a) authorizes the Court to enforce §§ 363 and 541 by granting the relief requested above. The Court also has jurisdiction over the Sale and the termination of the Agreement is consistent with the Trustee's fiduciary duty to creditors. In his business judgment, the Trustee has determined that cancellation of the Agreement will enable the sale of the Liquor License to an alternate purchaser—a new purchaser has been located and is currently in operation. An expeditious sale to this new purchaser will limit the estate's losses and generate administrable assets.

Last, with respect to attorney's fees, paragraph 15(F) of the Agreement provides:

F. Attorney's Fees. If any legal action, arbitration or other proceeding is brought relating to these instructions or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of the transactions involved in these instructions, the successful or prevailing party shall be entitled to recover reasonable costs incurred, including reasonable attorney's fees. In any collection of monies due hereunder without litigation, the collecting party shall be entitled to its reasonable costs incurred, including reasonable attorney's fees.

As such, if the Motion is granted, the Trustee requests that the Buyer reimburse the Trustee for the reasonable fees and expenses incurred in connection with Buyer's default. As of the preparation of the Motion, the Trustee estimates that reasonable attorneys' fees total "not less than approximately \$4,655.00." Motion at 9.

As of the date of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

### **A. The Buyer is in Default of the Agreement; Therefore, the Escrow is Terminated**

The Trustee avers that the Buyer has failed to satisfy the terms stated on a purchase agreement previously approved by this Court. Based on the Buyer's inability to submit the full purchase amount, the Trustee requests *inter alia* that the Court find that the Buyer has defaulted on the Agreement and terminate escrow. The Court concludes that the Buyer is indisputably in violation of the Agreement and escrow must be terminated to enable the Trustee to sell the Liquor License to a willing and

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capable purchaser.

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Bankruptcy courts possess the inherent power and authority to enforce their own orders. *See, e.g., Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 151 (2009) (finding that the “Bankruptcy Court plainly had jurisdiction to interpret and enforce its own prior orders”); *see also In re Gonzales*, 512 B.R. 255, 258 (Bankr. C.D. Cal. 2014) (“Bankruptcy court[s] have always been empowered to interpret and enforce their own orders.”). With respect to an order concerning procedures associated with the sale of a distressed asset, a bankruptcy court previously explained that:

Absent a determination by the Court that it has somehow been misled [*sic*] or has overlooked an unusual provision or other compelling circumstances, an order approving bidding procedures is binding on the parties in the case and on anyone who elects to participate in the sale process, especially the entity that submits the successful bid.

*See In re Galleria Investments LLC*, No. A06-62557-PWB, 2008 WL 7842107, at \*9 (Bankr. N.D. Ga. Apr. 4, 2008).

Reference is made to an order entered by this Court on November 19, 2019 [Doc. No. 34] (the “November 19 Order”), pursuant to which the Court approved the sale of the Liquor License to the Buyer, in accordance with the terms set forth in the Agreement. *See* November 19 Order (The Sale “is approved...the Trustee authorized and empowered to execute...any and all documents as may be reasonably necessary to implement the terms of the Sale.”). The Buyer did not oppose or otherwise respond to the Sale Motion. By executing the Agreement, the Buyer consented to be bound by the sale terms, including the provision that:

Within the latter of thirty days after application has been filed with the Department of Alcoholic Beverage Control...the Buyer/Transferee will cause to be handed to Escrow Holder the full amount of the Purchase Price as set out above.

*See* Agreement, ¶ 6; *see also* ¶ 15D (“A signature on these instructions and any document concerning this escrow means that the signatory has read, understands and approves the instruction or document.”).

Generally, the unjustified and unexcused failure to perform a contract is a breach. 1 Witkin, Summary of Cal. Law, Contracts, § 872 p. 719 (11th ed. 2020). “[A]

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material breach of a contract excuses further performance by the injured party and entitles that party to terminate the contract.” *Pena v. GMAC Mortg., LLC*, No. CV0906939MMMJCX, 2010 WL 11519504, at \*7 (C.D. Cal. Sept. 13, 2010) (citing 1 B. Witkin, Summary of Cal. Law, Contracts, § 796 p. 719 (9th ed. 1990)) (other internal citation omitted).

Here, the Buyer is in default of the Agreement, given its inability to timely tender the agree-upon purchase price to Escrow. In reviewing the Agreement, which is incorporated into the November 19 Order, the Court determines that the Buyer’s default constitutes a breach entitling the Trustee to terminate the Agreement, as the injured party in the subject transaction. Moreover, notwithstanding the Buyer’s persistent refusal to sign a cancellation notice, the termination of escrow sought by the Trustee is internally consistent with the terms stated in the Agreement. *See* Agreement, ¶ 15F (“the parties assume responsibility for determining liability for payment between themselves”); *see also* ¶ 15E (“Escrow Holder shall close the escrow as soon as possible unless Escrow Holder receives a written notice of cancellation.”). Finally, since the Trustee cannot sell the Liquor License while the instant matter remains unresolved, cancellation of escrow is consistent with the Trustee’s statutory duty to liquidate the estate’s assets. *See In re C.W. Mining Co.*, No. ADV.09-2248, 2010 WL 458914, at \*9 (Bankr. D. Utah Feb. 10, 2010) (“trustee is given ample discretion to administer the estate...The trustee’s business judgment is to be given great judicial deference.”).

In sum, due to the Buyer’s default, termination of escrow is appropriate.

B. The Trustee is Entitled to an Award of Attorneys’ Fees and Costs of \$4,655.00

Next, the Court turns to the issue of attorneys’ fees and costs requested by the Trustee. The Court again relies on the *In re Galleria* opinion for the uncontroversial proposition that parties participating in a distressed asset sale consent to the sale terms by executing the subject APA. *See* 2008 WL 7842107 at \*9.

Pursuant to Paragraph 15F of the Agreement, the party prevailing in “any legal action, arbitration or other proceeding...brought relating to these instructions” is entitled to a reimbursement of reasonable attorney’s fees and costs incurred in connection with such an action. The Trustee asserts that attorneys’ fees and costs associated with this Motion total at least \$4,655 and has supported this request by the Declaration of Howard Ehrenberg, which has not been opposed. Based on the present record and lack of opposition, the Court concludes that an award of \$4,655 supported.

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C. The Agreement is Silent on the Forfeiture of the Deposit in the Event of Buyer's Default

Finally, the Court addresses whether the Deposit should be forfeited in light of the Buyer's default. It is the position of the Trustee that the Buyer forfeited the Deposit because of its default and subsequent refusal to cooperate with the estate in proceeding with the cancellation of escrow. Aside from generally citing to §§ 105(a), 363, and 541, the Trustee has not proffered specific legal authority supporting his position.

“The court's entry of an order authorizing and approving the proposed sale and the sales procedures establishes definitive rules for the transaction, its terms and conditions, the procedures leading up to the sale, and its consummation.” *In re Galleria Investments LLC*, 2008 WL 7842107 at \*8; *see also In re Stroud Ford, Inc.*, 190 B.R. 785, 788 (Bankr. M.D. Pa. 1995) (prospective buyer's deposit towards the purchase of estate assets subject to forfeiture, where contract specifically provided for such loss if prospective buyer failed to perform). “The courts have rather consistently held that forfeitures are not favored in contract law and therefore any such provisions should be explicitly and clearly stated.” *In re Crown Corp.*, 679 F.2d 774, 776 (9th Cir. 1982) (citing to *Bornholdt v. Southern Pacific Co.*, 327 F.2d 18, 20 (9th Cir. 1964) and S. Williston, *A Treatise of the Law of Contracts* § 602A at 326 (3d ed. 1961 & Supp. 1981)). In the context of the sale of assets in a chapter 11 proceeding, forfeiture provisions in asset purchase agreements “should be clear and unambiguous to provide adequate notice to potential bidders...and should explicitly indicate the conditions of forfeiture.” *Id.* at 777 (internal citations omitted).

The Court has carefully reviewed the sale terms set forth in the Agreement and the Sale Motion, which were approved through the November 19 Order. However, nothing contained in either document discusses the forfeiture of the Deposit if the Buyer is incapable of consummating the Sale. The only provision expressly discussing the forfeiture and release of the Deposit is inapplicable here:

(5) the Deposit of the successful overbidder shall be forfeited if such party is thereafter unable to complete the purchase of the License within 30 days of entry of the order confirming the Sale.

Sale Motion at 5. The absence of any controlling terms on the defaulting Buyer's deposit proceeds is fatal to the Trustee's position. The parties here failed to enter into

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any agreement as to what would happen to the Deposit if the Sale failed to close, and based on the present record, there are no other contractual forfeiture provisions that have been incorporated into the Agreement. Furthermore, to construe any other provision tangentially discussing the disbursement of the Deposit as an agreement by the Buyer to the forfeiture thereof would be inconsistent with the decision in *In re Crown Corp.* See 679 F.2d at 777 (rejecting the lower court's reasoning that a liquidated damages provision applicable only to the original bidder could be read to bind a successive overbidder to the forfeiture of its deposit). Hence, by entering into the Agreement, the Buyer did not have adequate notice that its Deposit would be surrendered if the Sale did not close.

In conclusion, the Trustee's request for the release of the Deposit, in its entirety, to the estate is denied. However, the dollar sum of \$4,655, constituting the Trustee's reasonable legal fees and costs associated with the Motion, shall be deducted from the Deposit and disbursed to the Trustee. See Agreement, ¶ 15G ("In the event of cancellation, Escrow Holder may take from any monies on deposit with Escrow Holder any sums necessary to pay all fees and costs incurred in this escrow."). The remainder shall be returned to the Buyer forthwith, subject to any additional costs, fees, and expenses contemplated in the Agreement.

### **III. Conclusion**

Based upon the foregoing, the Motion is GRANTED IN PART as set forth above.

The Trustee shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Section 24074.3 of the California Business and Professional Code provides in

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relevant part:

(a) Within 30 days after the filing of an application for transfer of a license referred to in Section 24073, the intended transferee shall file with the department a statement executed under penalty of perjury that the purchase price or consideration as set forth in the escrow agreement required by Section 24074 has been deposited with the escrowholder. At the time such statement is filed with the department copies thereof shall be submitted by the intended transferee to the transferor and the escrowholder concerned. The 30-day period specified by this section may be extended by the department for good cause; however, the license shall not be transferred until the statement required by this section is received by the department.

(b) This section shall not apply in the case of transfers for which a guaranty of payment has been filed pursuant to Section 24074.4.

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

**Debtor(s):**

Soul Hollywood, LLC

Represented By  
David S Hagen

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Claire K Wu



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**2:15-16111 Jung Hee Choi**

**Chapter 7**

Adv#: 2:15-01381      DOOIN INDUSTRIAL CORPORATION, a foreign corporatio v. Choi

**#1.00** Hearing re [110] Application for Appearance and Examination/Enforcement of Judgment/Judgment Debtor ***Sun Kyung Lee, aka Sunny Lee, dba Piussance Textile Company.***

fr. 1-8-20; 3-18-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-14-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jung Hee Choi

Represented By  
Kelly K Chang

**Defendant(s):**

Jung Hee Choi

Pro Se

**Plaintiff(s):**

DOOIN INDUSTRIAL

Represented By  
Nico N Tabibi

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

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**2:15-16111 Jung Hee Choi**

**Chapter 7**

Adv#: 2:15-01381      DOOIN INDUSTRIAL CORPORATION, a foreign corporatio v. Choi

**#2.00**      Hearing re re [109] Appearance and Examination/Enforcement of Judgment/Judgment debtor ***JUNG HEE CHOI, AKA JUNG HEE LEE, DBA THE HUGE TREE***

fr. 1-8-20; 3-18-20

Docket      0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-14-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jung Hee Choi

Represented By  
Kelly K Chang

**Defendant(s):**

Jung Hee Choi

Pro Se

**Plaintiff(s):**

DOOIN INDUSTRIAL

Represented By  
Nico N Tabibi

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

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**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#3.00** HearingRE: [52] Motion NOTICE OF MOTION AND MOTION UNDER FEDERAL RULES OF CIVIL PROCEDURE RULE 12(B)(6) FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED AS TO FIRST AMENDED COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITY;

Docket 52

**Tentative Ruling:**

7/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motions to Dismiss are **GRANTED**, and the Amended Complaint is **DISMISSED WITH PREJUDICE**.

**Pleadings Filed and Reviewed:**

- 1) First Amended Complaint [Doc. No. 20] (the "Amended Complaint")
- 2) Notice of Motion and Motion Under Federal Rule of Civil Procedure 12(b)(6) [to Dismiss Amended Complaint for] Failure to State a Claim Upon Which Relief Can be Granted [Doc. No. 52] (the "Tshavrushyan MTD")
- 3) Defendant Charlton Lui's Notice of Motion and Motion to Dismiss Plaintiff's First Amended Complaint [Doc. No. 30] (the "Lui MTD")
- 4) Trustee's Consolidated Opposition to Motions to Dismiss First Amended Complaint Filed By Defendants Charlton Lui and Hovhannes Tshavrushyan [Doc. No. 56]
- 5) Reply to Plaintiff's Opposition to Defendant Charlton Lui's Motion to Dismiss Plaintiff's First Amended Complaint [Doc. No. 58] (the "Lui Reply")

**I. Facts and Summary of Pleadings**

On April 14, 2020, the Chapter 7 Trustee (the "Trustee") filed a First Amended

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Complaint [Doc. No. 20] (the "Amended Complaint") against Hovhannes Tshavrushyan ("Tshavrushyan"), Charlton Lui, in his individual capacity ("Lui") and in his capacity as Trustee of the Catalyst Trust (the "Catalyst Trust"), CP WW Ventures, Inc. ("CP WW"), CTC Investment Holdings, LLC ("CTC"), and Primo Hospitality Group, Inc ("Primo").

The Trustee filed the Amended Complaint without leave of Court and without obtaining the opposing parties' written consent, in violation of Civil Rule 15(a). By order entered on April 14, 2020, the Court provided the Defendants an opportunity to object to the filing of the Amended Complaint. Doc. No. 19 (the "Procedures Order"). The Procedures Order stated that if no objections were timely filed, the Defendants would be deemed to have consented to the filing of the Amended Complaint. After Tshavrushyan objected to the filing of the Amended Complaint, the Court set a briefing schedule on whether the Trustee would be given leave to file the Amended Complaint. Doc. No. 32. On June 15, 2020, the Court issued a Memorandum of Decision and accompanying order granting the Trustee leave to file the Amended Complaint and deeming the Amended Complaint to have been filed as of June 15, 2020. Doc. Nos. 40–41.

**Summary of the Amended Complaint**

The allegations of the Amended Complaint may be summarized as follows:

The Catalyst Trust is or was the managing member of the Debtor. Amended Complaint at ¶ 6. Lui personally guaranteed certain obligations of the Debtor. *Id.* at ¶ 7. The Debtor is 100% owned by CP WW; CP WW is 100% owned by CTC; and CTC is 100% owned by Primo. *Id.* at ¶¶ 8–14. Lui is the president of CP WW, the president and manager of CTC, and the chief executive officer, chief financial officer, and secretary of Primo. *Id.* at ¶¶ 9–15. As a result of his various affiliations or contractually, Lui has personal responsibility for certain obligations of the Debtor (the "Guaranteed Payments"). *Id.* at ¶ 7.

Tshavrushyan was an officer of the Debtor and guaranteed certain debts of the Debtor or paid certain debts of the Debtor with the belief that he would be repaid (the "Hovhannes Payments"). *Id.* at ¶ 17. Tshavrushyan is an insider of the Debtor. *Id.* at ¶ 18.

The Trustee has reviewed bank statements provided by the Debtor (the "Bank Statements"). There are numerous transfers, of various amounts, from the Debtor's accounts into other accounts to payees for whom the Trustee has not been provided with identification or purpose, and for which there is no evidence that they related to

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goods or services provided to the Debtor (collectively, the "Unidentified Transfers"). The Unidentified Transfers total not less than \$250,000. *Id.* at ¶ 21–22. Additional transfers may have been made outside the period for which the Trustee was provided with records, but within the period that would allow the Trustee to avoid and recover them; such additional transfers (the "Additional Transfers") are also avoidable and recoverable. *Id.* at ¶ 23. (The Guaranteed Payments, the Hovhannes Payments, the Unidentified Transfers, and the Additional Transfers are collectively referred to as the "Transfers.")

Based upon the foregoing allegations, the Complaint asserts the following claims for relief:

- 1) Avoidance and recovery of the Transfers as actually fraudulent, pursuant to §§ 548(a)(1)(A) and 544, applying Cal. Civ. Code § 3439.04(a)(1) (claims one, five, and eleven).
- 2) Avoidance and recovery of the Transfer as constructively fraudulent, pursuant to §§ 548(a)(1)(B) and 544, applying Cal. Civ. Code § 3439.04(a)(2) and (a)(5) (claims two, three, four, six, seven, eight, and eleven).
- 3) Avoidance and recovery of the Transfers as preferences, pursuant to § 547(b) (claims nine, ten, and eleven).

**C. Summary of Papers Filed in Connection with the Motions to Dismiss**

Lui and the Catalyst Trust (the "Lui Defendants") and Tshavrushyan (collectively, the "Defendants") move to dismiss the Amended Complaint under Civil Rule 12(b)(6), for failure to state a claim upon which relief can be granted. [**Note 1**] Defendants argue that:

- 1) The Amended Complaint fails to allege specific facts showing that Movants are liable for the misconduct alleged. The Amended Complaint does not even identify the specific Transfers which the Trustee seeks to avoid. It is not possible for Movants to respond to such vague allegations.
- 2) The fraudulent transfer claims do not plead the alleged fraud with particularity, as required by Civil Rule 9(b).

In addition to the foregoing arguments, Tshavrushyan asserts that the Complaint fails to state a claim because it is pleaded based on information and belief. The Lui Defendants assert that the Trustee should not be granted leave to amend, because even

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after the Lui Defendants responded to requests for information regarding the Bank Accounts, the Trustee was unable to allege specific facts stating a claim for relief.

The Trustee filed an omnibus opposition to the Motions to Dismiss (the "Omnibus Opposition"). The Trustee opposes dismissal for the following reasons:

- 1) There is no merit to Defendants' argument that they cannot defend against the Amended Complaint because they do not know which Transfers the Trustee is seeking to avoid. Both Defendants are insiders with sufficient knowledge of the transactions in question to be able to identify them. The Trustee has provided copies of the Bank Statements in his possession to the Defendants, thereby identifying each of the transactions that are the subject of this adversary proceeding (with the possible exception of transfers made before the earliest of the Bank Statements provided to the Trustee).
- 2) There is no merit to Tshavrushyan's argument that the Amended Complaint fails to state a claim because the allegations are pleaded upon information and belief. *See Hightower v. Tilton*, No. C08-1129-MJP, 2012 WL 1194720, at \*3 (E.D. Cal. Apr. 10, 2012) ("Plaintiffs' allegation based on information and belief is sufficient to survive a motion to dismiss.").
- 3) Defendants argue that the Amended Complaint's allegations of fraud are not pleaded with particularity in accordance with the requirements of Civil Rule 9. A claim to avoid a transfer as actually fraudulent need not state with particularity the circumstances constituting fraud or mistake. Civil Rule 9(b) provides that "[m]alice, intent, knowledge, and other conditions of a person's mind may be alleged generally." Section 548(a)(1)(A) allows the Trustee to avoid transfers "made with actual intent to hinder, delay, or defraud any entity ...." The phrase "hinder, delay, or defraud" is worded in the disjunctive, meaning that a transfer made with the intent to do any one of the three may be avoided. A claim to avoid a transfer made with the intent to hinder or delay creditors need not be alleged with specificity. "A bankruptcy trustee, as a third party outsider to the debtor's transactions, is generally afforded greater liberality in pleading fraud." *Miller v. McCown De Leeuw & Co., Inc. (In re The Brown Schools)*, 368 B.R. 394, 399 (Bankr. D. Del. 2007).

Tshavrushyan did not file a reply to the Omnibus Opposition. The Lui Defendants filed a reply to the Omnibus Opposition in which they make the following arguments:

- 1) The fact that the Trustee provided the Bank Statements to the Lui Defendants

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does not excuse the Trustee from having to file a properly pleaded complaint. The Trustee provided the Lui Defendants with approximately fifteen bank statements containing thousands of transactions. The Trustee did not identify any transactions determined to be problematic. The Lui Defendants identified the transactions to the best of their knowledge, yet the Trustee's Amended Complaint still contains only conclusory allegations devoid of specificity.

- 2) The Trustee cites *In re The Brown Schools* for the proposition that a Trustee is afforded greater liberality in pleading fraud. However, under the standard articulated in *Brown Schools*, the Amended Complaint fails to state a claim. *Brown Schools* held that a complaint was insufficient because it did "not specify what individual Defendant received which particular transfer." *Brown Schools*, 368 B.R. at 403. The Amended Complaint suffers from the same defect because it does not identify the specific transfers the Trustee seeks to avoid.

## II. Findings and Conclusions

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.' A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citations omitted). To state a plausible claim for relief, a complaint must satisfy two working principles:

First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitations of the elements of a cause of action, supported by mere conclusory statements, do not suffice.... Second, only a complaint that states a plausible claim for relief survives a motion to dismiss. Determining whether a complaint states a plausible claim for relief will ... be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not "show[n]"—"that the pleader is entitled to relief."

*Id.* (citing Civil Rule 8(a)(2)).

Although the pleading standard Civil Rule 8 announces "does not require 'detailed factual allegations,' ... it demands more than an unadorned, the-defendant-

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unlawfully-harmed-me accusation.... A pleading that offers ‘labels and conclusions’ or a ‘formulaic recitation of the elements of a cause of action will not do.’ Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

None of the Amended Complaint’s eleven causes of action state a claim for relief. The Amended Complaint alleges that certain unspecified transfers set forth on approximately fifteen bank statements containing thousands of transactions are avoidable. It does not specify which transfers are avoidable.

In *JLL Consultants v. Gother (In re AgFeed USA, LLC)*, 546 B.R. 318, 336 (Bankr. D. Del. 2016), the court dismissed a complaint’s fraudulent transfer claims:

Count VIII alleges that any payments made to Gothner under the Employment Agreement were made within two years before the petition date, were made to or for the Defendant’s benefit, and to the extent any of the transfers were not made on account of antecedent debt owed by the Debtor, the Debtor did not receive reasonably equivalent value in exchange for the transfers. *See* Complaint at ¶¶ 133–36. Additionally, the complaint alleges that on the date each transfer was made, the Debtor: (a) “[w]as insolvent or became insolvent as a result of such transfer;” (b) “was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the Debtor was an unreasonably small capital;” or “(c) intended to incur, or believed it would incur, debts that would be beyond the Debtor’s ability to pay as such debts matured.” *See* Complaint at ¶ 138.

Taking all facts in the complaint as true and drawing all reasonable inferences in favor of Plaintiff, the Court holds that Plaintiff has failed to state a claim against the Defendant under section 548(a)(1)(B). The complaint fails to allege specific facts relating to the date of any of the transfers, the amount of any of the transfers or the transferor of any of the transfers. Rather, the complaint makes a general reference to all “payments made to Gothner under the Employment Agreement.” *See* Complaint at ¶ 133. This language is insufficient to survive a 12(b)(6) motion. *See Pardo v. Found. Health Corp. (In re APF Co.)*, 2004 WL 1969580, at \*1 (Bankr.D.Del. Jan. 21, 2004) (dismissing 548 claims where the complaint merely alleged that the debtors “made a number of payments” relative to particular note obligations). Furthermore, the allegations in the complaint simply mirror the language of section 548(a)(1)(B). This too is insufficient.

Like the complaint in *AgFeed*, here the Amended Complaint alleges no specific facts



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**Chapter 7**

regarding the date of any of the transfers, the amounts of the transfers, or to whom the transfers were made. Instead, the Amended Complaint contains only conclusory allegations that the Defendants received transfers that are subject to avoidance. As such, the Amended Complaint fails to state a claim upon which relief can be granted.

Defendants cannot defend against the misconduct alleged if the Amended Complaint fails even to identify which transfers are subject to avoidance. It is no answer for the Trustee to assert that the Defendants, as the recipients of the allegedly avoidable transfers, already know which transfers the Trustee seeks to avoid. The Trustee's argument completely disregards the pleading standards articulated in *Iqbal* and *Twombly*.

Even if the Court were to overlook the Trustee's failure to identify which transfers are alleged to be avoidable, the Amended Complaint suffers from an additional defect. The Amended Complaint alleges that that "there is no evidence" that the unspecified avoidable transfers "related to goods or services provided to the Debtor," but it does not allege specific facts giving rise to the reasonable inference that the transfers were not for services provided to the Debtor's business. A complaint containing sufficient factual allegations might, for example, allege that the transfers were not for business-related services because the debtor operated a restaurant but the transfers were for the purchase of a two-week cruise in the Bahamas.

Before the Trustee filed the Amended Complaint, the Lui Defendants provided the Trustee information regarding certain of the transfers on the Bank Statements. Notwithstanding this cooperation from the Lui Defendants, the Amended Complaint fails to sufficiently allege any claims for relief. If the Trustee had cognizable claims against the Defendants, he could have, and should have, alleged them by this point. The Trustee's failure to do so indicates that giving leave to amend would be futile. The Amended Complaint is dismissed with prejudice. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (holding that the Court may dismiss a complaint without leave to amend where any proposed amendment would be futile). [Note 2]

### **III. Conclusion**

Based upon the foregoing, the Motions to Dismiss are **GRANTED**, and the Amended Complaint is **DISMISSED WITH PREJUDICE**.

The Court will prepare and enter an order dismissing the Amended Complaint.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel

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Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Lui and the Catalyst Trust are represented by Sanaz Bereliani. Tshavrushyan is represented by Roland Kedikian. The Chapter 7 Trustee is represented by Diane Weil.

**Note 2**

CP WW, CTC, and Primo have not moved to dismiss the Amended Complaint. The Amended Complaint fails to state a claim because it fails to specifically identify the allegedly avoidable transfers, and fails to allege facts supporting a reasonable inference that the transfers at issue are subject to avoidance. Therefore, the Amended Complaint fails to state a claim with respect to all the Defendants, and its dismissed in its entirety.

**Party Information**

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe	Represented By Michael Jay Berger
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**Defendant(s):**

Charlton Lui	Represented By Sanaz Sarah Bereliani
Catalyst Trust	Pro Se
CP WW Ventures Inc	Pro Se
CTC Investment Holdings LLC	Pro Se
Primo Hospitality Group, Inc.	Pro Se
Hovahannes Tshavrushyan	Represented By Roland H Kedikian

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**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Diane C Weil

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh  
Diane C Weil

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**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#4.00** Hearing  
RE: [52] Motion NOTICE OF MOTION AND MOTION UNDER FEDERAL  
RULES OF CIVIL PROCEDURE RULE 12(B)(6) FAILURE TO STATE A CLAIM  
UPON WHICH RELIEF CAN BE GRANTED AS TO FIRST AMENDED  
COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITY;

Docket 52

**\*\*\* VACATED \*\*\* REASON: DUPLICATE OF CALENDAR NO. 3**

**Tentative Ruling:**

7/21/2020

Duplicate entry.

**Party Information**

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe

Represented By  
Michael Jay Berger

**Defendant(s):**

Charlton Lui

Represented By  
Sanaz Sarah Bereliani

Catalyst Trust

Pro Se

CP WW Ventures Inc

Pro Se

CTC Investment Holdings LLC

Pro Se

Primo Hospitality Group, Inc.

Pro Se

Hovahannes Tshavrushyan

Represented By  
Roland H Kedikian

**Plaintiff(s):**

Rosendo Gonzalez

Represented By

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**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Diane C Weil

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh  
Diane C Weil

**United States Bankruptcy Court  
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**Wednesday, July 22, 2020**

**Hearing Room 1639**

10:00 AM

**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#5.00** Hearing re [41] Second Lui Motion To Dismiss And The Second Tshavrushyan Motion To Dismiss.

Docket 0

**Tentative Ruling:**

7/21/2020

See Cal. No. 3, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe

Represented By  
Michael Jay Berger

**Defendant(s):**

Charlton Lui

Represented By  
Sanaz S Bereliani

Catalyst Trust

Pro Se

CP WW Ventures Inc

Pro Se

CTC Investment Holdings LLC

Pro Se

Primo Hospitality Group, Inc.

Pro Se

Hovahannes Tshavrushyan

Represented By  
Roland H Kedikian

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Diane C Weil

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**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh  
Diane C Weil

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2:20-11441 Kevin Huntelman

Chapter 7

#6.00 Show Cause Hearing re [26] Debtor To Appear And Show Cause Why Case Should Not Be Dismissed Because Of Debtor's Failure To Pay The Filing Fee In Installments.

FR. 7-1-20

Docket 0

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-13-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kevin Huntelman

Pro Se

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se



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**2:18-13731 Samuel Antonio Acevedo and Lucy Acevedo**

**Chapter 11**

**#7.00** HearingRE: [144] Motion for order confirming chapter 11 plan

Docket 144

**Tentative Ruling:**

7/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Plan is CONFIRMED. Because the Debtors have presented a confirmable plan, the OSC is DISCHARGED.

**Pleadings Filed and Reviewed**

1. Stipulation by United States Trustee and Debtors for Continuing Compliance in resolution of United States Trustee's Motion under 11 U.S.C. Sec. 1112(b)(1) to Convert, Dismiss, or Appoint a Chapter 11 Trustee with an Order Directing Payment of Quarterly Fees and for Judgment Thereon and Request to Vacate Hearing [Doc. No. 60]
2. Individual Debtor's [sic] Disclosure Statement in Support of Plan of Reorganization [Doc. No. 65] (the "Disclosure Statement")
3. Individual Debtor's [sic] Chapter 11 Plan of Reorganization [Doc. No. 66] (the "Original Plan")
4. Individual Debtors' First Amended Disclosure Statement in Support of First Amended Plan of Reorganization [Doc. No. 82] (the "First Amended Disclosure Statement")
5. Individual Debtor's [sic] Chapter 11 First Amended Plan of Reorganization [Doc. No. 83] (the "First Amended Plan")
6. Debtors' Notice of Hearing on Adequacy of First Amended Disclosure Statement Describing Debtors' First Amended Chapter 11 Plan of Reorganization Dated July 26, 2019 [Doc. No. 84]
7. Individual Debtor's [sic] Chapter 11 Second Amended Plan of Reorganization

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- [Doc. No. 97] (the "Second Amended Plan")
8. Debtors' Notice of Hearing on Adequacy of Second Amended Disclosure Statement Describing Debtors' Second Amended Chapter 11 Plan of Reorganization [Doc. No. 98]
  9. Individual Debtors' Second Amended Disclosure Statement in Support of Second Amended Plan of Reorganization [Doc. No. 96] (the "Second Amended Disclosure Statement")
  10. Individual Debtors' Third Amended Disclosure Statement in Support of Second Amended Plan of Reorganization [Doc. No. 101] (the "Third Amended Disclosure Statement")
  11. Order Approving Amended Disclosure Statement and Setting Hearing on Confirmation of Plan [Doc. No. 102]
  12. Proof of Service Re Solicitation Package [Doc. No. 104]
  13. Debtors-in-Possession Motion to Confirm Chapter 11 Plan of Reorganization (the "Confirmation Brief") [Doc. No. 107]
  14. Objection to Confirmation of Chapter 11 Plan [Doc. No. 108] (the "Objection")
  15. Order (1) Vacating The Continued Plan Confirmation Hearing, And (2) Setting Order Requiring Debtors To Show Cause Why This Case Should Not Be Converted Or Dismissed [Doc. No. 113] (the "OSC")
  16. Reply to OSC [Doc. No. 120]
  17. Individual Debtors' Fourth Amended Disclosure Statement in Support of Third Amended Plan of Reorganization [Doc. No. 121] (the "Fourth Amended Disclosure Statement")
  18. Individual Debtor's [sic] Chapter 11 Third Amended Plan of Reorganization [Doc. No. 122] (the "Third Amended Plan")
  19. Order Continuing OSC Hearing to July 22, 2020, at 10:00 a.m. [Doc. No. 126]
  20. Proof of Service of Amended Solicitation Package (Amended) [Doc. No. 137]
  21. Debtors' Supplemental Notice to Creditors Re: Submission of Ballots on Debtors' Chapter 11 Plan of Reorganization [Doc. No. 134]
  22. Stipulation Re: Chapter 11 Plan Treatment [Doc. No. 139] (the "Wells Fargo Stipulation")
    - a. Order Approving the Wells Fargo Stipulation [Doc. No. 141]
  23. Debtors' Motion to Confirm Chapter 11 Plan of Reorganization Pursuant to 11 U.S.C. § 1129 [Doc. No. 144] (the "Confirmation Brief")
  24. As of the preparation of this tentative ruling, no reply is on file

**I. Facts and Summary of Pleadings**

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**Chapter 11**

Debtors-in-possession, Samuel Antonio Acevedo ("Samuel") and Lucy Acevedo ("Lucy") (together, the "Debtors"), filed this voluntary Chapter 11 case on April 3, 2018 (the "Petition Date"). [Note 1]. The Debtors' primary asset consists of a rental property located at 6220 Palladio Lane, Fontana, CA 92336 (the "Rental Property"), which they rent out for an additional \$3,100 in monthly income [see Doc. No. 85]. The Debtors sought bankruptcy protection after experiencing several years of financial hardship precipitated by Samuel's unexpected loss of employment. In addition, the Debtors' fell behind on mortgage payments on the Rental Property after depleting their savings. Both Debtors are now employed and generate regular monthly income.

On March 13, 2019, the Debtors obtained an order granting their motion to value the Rental Property at \$435,000 for purposes of plan confirmation [Doc. No. 45] (the "Rental Property Valuation Order"). On March 19, 2019, the Debtors obtained an order granting their motion to value their 2016 Honda Accord (the "Vehicle") at \$15,977 for purposes of plan confirmation, which resulted in the bifurcation of American Honda Finance's claim into a secured claim of \$15,977 and an unsecured claim of \$3,731.60 [Doc. No. 50] (the "Vehicle Valuation Order").

Subject to the Court's proposed amendments, the Debtors' Third Amended Disclosure Statement was approved on October 24, 2019 [Doc. No. 102] (the "Scheduling Order"), at which time the Court also established deadlines concerning solicitation and confirmation of Debtors' chapter 11 plan. Previously, the Court determined that the Debtors' *Second Amended Chapter 11 Plan of Reorganization* (the "Second Amended Plan") could not be confirmed for reasons explained in the Court's ruling. In short, the Court declined to approve the Second Amended Plan because no class casted a vote on the amended plan and Wells Fargo Bank, N.A. ("Wells Fargo") objected to plan confirmation.

**Events Leading Up to the Second Confirmation Hearing**

In determining that the Second Amended Plan was not confirmable, the Court established updated dates and deadlines concerning the transmission of Debtors' amended voting package and reserved April 15, 2020 as the continued confirmation hearing date. See Court's Ruling [Doc. No. 110]. The Debtors failed to comply with the Court's instructions and amended materials were not filed in time for the April 15 hearing. Based on Debtors' noncompliance, on April 3, 2020, the Court entered the

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**Chapter 11**

*Order Requiring Debtors to Show Cause Why this Case Should Not be Converted or Dismissed* [Doc. No. 113] (the "OSC"). In response to the OSC, the Debtors and their counsel submitted declarations, explaining that the delay was a result of counsel's calendaring error and the Debtors' inability to timely deliver relevant documents [Doc. No. 120]. The Court ordered the continuance of the OSC to the instant hearing and re-established deadlines in connection with the confirmation of an amended plan.

Additionally, the Debtors entered a stipulation with Wells Fargo that resolves its objection against the Second Amended Plan [Doc. No. 139] (the "Stipulation"). The Stipulation provides that Wells Fargo will have a secured claim totaling its payoff balance as of the confirmation date, which is payable over 360 months at a fixed rate of interest at 5% per annum. The Stipulation further clarifies that Wells Fargo's secured claim will remain escrowed for the payment of property taxes and insurance, a point of contention in Wells Fargo's objection.

On April 27, 2020, the Debtors filed another amended plan [Doc. No. 122] (the "Third Amended Plan") and a disclosure statement [Doc. No. 121] (the "Fourth Amended Disclosure Statement"). Consistent with the Court's ruling on the Second Amended Plan, the Debtors transmitted a supplemental notice to creditors [Doc. No. 134] (the "Supplemental Notice") on May 12, 2020, which states that: "Creditors that fail to timely return a ballot by the June 12th, 2020 deadline will be deemed acceptance [*sic*] of the amended Plan." [Note 2]. On June 30, 2020, the Debtors filed the *Debtors' Motion to Confirm Chapter 11 Plan of Reorganization Pursuant to 11 U.S.C § 1129* [Doc. No. 144] (the "Confirmation Brief") seeking to confirm the Third Amended Plan. The Confirmation Brief reports that no votes have been casted in favor or against the Third Amended Plan, whether timely or untimely.

A summary of the Debtors' Third Amended Plan is set forth below:

**Summary of the Plan**

*Administrative Claims*

The Debtors anticipate that administrative fees for professionals will be approximately \$6,000 on the Effective Date, consisting of \$4,000 for remaining

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chapter 11 fees and \$2,000 for administrative fees owed to former counsel [Note 3]. The Debtors propose to pay all administrative claims in full, on the Effective Date, from available cash on hand and with the assistance of a one-time \$5,000 family contribution payment.

*Priority Tax Claims*

As set forth in the Fourth Amended Disclosure Statement, the Debtors propose to pay the Internal Revenue Service's (the "IRS") claim of \$1,681, in full, plus 6% interest, within five years from the Petition Date, by making equal monthly installments of \$32.50 beginning on the Effective Date. [Note 4]

*Class 5(a) – Wells Fargo – Deemed to Accept the Third Amended Plan*

Class 5(a) consists of the secured claim of Wells Fargo. Wells Fargo holds a first-priority deed of trust against the Rental Property securing debt in the approximate amount of \$382,478.36. Based on the Stipulation, the Debtors propose to pay Wells Fargo's claim in full by making monthly installment payments of \$2,543.23 over 360 months, at a 5% interest rate per annum. This class is impaired and entitled to vote on the Third Amended Plan, but it did not cast a ballot. However, pursuant to the Supplemental Notice, Wells Fargo was advised that failure to cast a vote on the Third Amended Plan would be construed as a vote in favor of the Plan. Therefore, Wells Fargo is deemed to accept the Plan.

*Class 5(b) – American Honda Finance Corporation ("Honda") – Deemed to Accept the Third Amended Plan*

Class 5(b) consists of Honda's secured claim. Honda holds a perfected security interest in the Vehicle. Pursuant to the Vehicle Valuation Order, Honda holds a secured claim of \$15,977 and an unsecured claim of \$3,731.60. Accordingly, the Debtors propose to pay Honda's secured claim in full, with a 4.5% interest per annum, by making monthly installment payments of \$298 over a five-year period. This class is impaired and entitled to vote on the Third Amended Plan, but it did not cast a ballot. However, pursuant to the Supplemental Notice, Honda was advised that failure to cast a vote on the Third Amended Plan would be construed as a vote in favor of the plan. Therefore, Honda is deemed to accept the Plan.

*Class 6(b) – General Unsecured Claims – Deemed to Accept the Third Amended Plan*

This class consists of allowed general unsecured claims, which the Debtors estimate hold aggregate claims in the amount of \$9,825. [Note 5]. The Debtors

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propose to pay this class 100% of their claims, without interest, over a 5-year period by making equal pro-rata monthly installment payments totaling \$163.75. This class is impaired and entitled to vote on the Third Amended Plan, but it did not cast a ballot. However, pursuant to the Supplemental Notice, Class 6(b) was advised that failure to cast a vote on the Third Amended Plan would be construed as a vote in favor of the plan. Therefore, Class 6(b) is deemed to accept the Plan.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

As set forth below, the Court finds that the Third Amended Plan complies with all applicable provisions of § 1129. The plan is confirmed.

### **SECTION 1129(a)(1)**

Section 1129(a)(1) requires that the "plan compl[y] with the applicable provisions of this title." According to the leading treatise, the "legislative history suggests that the applicable provisions are those governing the plan's internal structure and drafting: 'Paragraph (1) requires that the plan comply with the applicable provisions of chapter 11, such as section 1122 and 1123, governing classification and contents of a plan.'" *Collier on Bankruptcy* ¶ 1129.01[1] (16th rev'd ed.) (citing S. Rep. No. 989, 95th Cong., 2d Sess. 126 (1978)).

#### 1. Section 1122(a)

Section 1122(a) provides that "a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class."

The Third Amended Plan's classification structure complies with § 1122(a).

#### 2. Section 1122(b)

Section 1122(b) provides that "a plan may designate a separate class of claims consisting only of every unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience."

The Third Amended Plan does not contain any convenience classes. Section 1122(b) does not apply.

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3. Section 1123(a)(1)

Section 1123(a)(1) requires that a plan "designate ... classes of claims, other than claims of a kind specified in section 507(a)(2) [administrative expense claims], 507(a)(3) [claims arising during the gap period in an involuntary case], or 507(a)(8) [priority tax claims], and classes of interest." There are no involuntary gap claims because this is a voluntary chapter 11 case. The Plan provides that the Debtors do not have any priority tax claims. In addition, the Amended Plan appropriately classifies administrative expense claims. The Third Amended Plan satisfies § 1123(a)(1).

4. Section 1123(a)(2)

Section 1123(a)(2) requires that the Plan "specify any class of claims or interests that is not impaired under the Plan." There are no classes of unimpaired claims specified in the Third Amended Plan. The Third Amended Plan satisfies § 1123(a)(2).

5. Section 1123(a)(3)

Section 1123(a)(3) requires that the Plan "specify the treatment of any class of claims or interests that is impaired under the Plan."

The Third Amended Plan specifies the treatment afforded to impaired classes—Classes 5(a), 5(b), and 6(b). The Third Amended Plan satisfies § 1123(a)(3).

6. Section 1123(a)(4)

Section 1123(a)(4) requires that the Plan "provide the same treatment for each claim or interest of a particular class unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest."

The Third Amended Plan provides the same treatment to claims of the same class, unless the holders of such claims have accepted a less favorable treatment. One change to Class 6(b) from the previous iteration of the plan is that the Debtors have re-labeled the claims of certain unsecured creditors as "disputed", thereby reducing the value of such claims to \$0. *See* Fourth Amended Disclosure Statement, Ex. C. All interested parties were notified of this proposed treatment and given an opportunity to assert an objection. Based on the Supplemental Notice, the Court construes the absence of opposition as acceptance of the Debtors' proposal for the purposes of § 1123(a)(4). The Third Amended Plan satisfies § 1123(a)(4).

7. Section 1123(a)(5)

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**Chapter 11**

Section 1123(a)(5) requires that the Plan "provide adequate means for the plan's implementation."

The Plan will be funded by revenue generated by rental income, pre- and post-confirmation wage earnings of the Debtors, and a one-time family contribution of \$5,000. The Debtors anticipate having approximately \$15,071.81 of cash on hand on the Effective Date of the Third Amended Plan to pay effective date payments of approximately \$6,000 and plan payments due following the Effective Date. *See* Fourth Amended Disclosure Statement at 6; Debtors Declaration in Support of Fourth Amended Disclosure Statement, ¶ 38.

In support, the Debtors submitted the following evidence of her ability to adequately implement the Third Amended Plan: 1) historical financial statements for the past six months (Fourth Amended Disclosure Statement, Exhibit A2), 2) Debtors' recent post-petition income and expenses (Fourth Amended Disclosure Statement, Exhibit A1), and 3) a five-year projection of income and expenses (Fourth Amended Disclosure Statement, Exhibit A3). Based on its review of the Debtors' most recent monthly operation reports [Doc. No. 132], the Court determines that the proposed funding sources provide a realistic means for the Third Amended Plan's implementation. Moreover, the Debtors assert that this ongoing cash flow is sufficient to fund the Third Amended Plan. Confirmation Brief at 7. The Third Amended Plan satisfies § 1123(a)(5).

8. Section 1123(a)(6)

Section 1123(a)(6) which imposes certain requirements upon corporate debtors, does not apply.

9. Section 1123(a)(7)

Section 1123(a)(7) which imposes certain requirements upon corporate debtors, does not apply.

10. Section 1123(a)(8)

Section 1123(a)(8) requires that individual debtors must provide post-petition earnings and other future income as needed to execute the Plan.

The plan provides that Debtors will apply their future income to fund the Third Amended Plan. The Third Amended Plan satisfies § 1123(a)(8).



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**SECTION 1129(a)(2)**

Section 1129(a)(2) requires that the "proponent of the plan compl[y] with the applicable provisions of this title." The Court finds that the Plan Proponent has:

- 1) Obtained Court approval of a disclosure statement in accordance with § 1125 (*see* "Order Approving Disclosure Statement and Setting Hearing on Confirmation of Plan" [Doc. No. 102]);
- 2) Obtained Court approval of the employment of professional persons (*see* "Order Granting Motion in Individual Ch. 11 Case for Order Employing Professional" [Doc. No. 31]); and
- 3) Filed monthly operating reports.

Accordingly, the Third Amended Plan satisfies the requirements of § 1129(a)(2).

**SECTION 1129(a)(3)**

Section 1129(a)(3) requires that the "plan has been proposed in good faith and not by any means forbidden by law." As one court has explained:

The term 'good faith' in the context of 11 U.S.C. § 1129(a)(3) is not statutorily defined but has been interpreted by case law as referring to a plan that 'achieves a result consistent with the objectives and purposes of the Code.' 'The requisite good faith determination is based on the totality of the circumstances.'

*In re Melcher*, 329 B.R. 865, 876 (Bankr. N.D. Cal. 2005) (internal citations omitted).

The Third Amended Plan seeks objectives that are consistent with those of the Bankruptcy Code and the Plan Proponent has complied with the requirements of the Code throughout this case. Under Fed. R. Bankr. P. 3015(f), the Court is not required to receive evidence as to good faith because no party has objected to confirmation. Section 1129(a)(3) is satisfied.

**SECTION 1129(a)(4)**

Section 1129(a)(4) requires that "[a]ny payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable."

The Third Amended Plan provides that payment of all professional fees is subject

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to final review by the Court. The plan satisfies § 1129(a)(4).

**SECTION 1129(a)(5)**

Section 1129(a)(5) which imposes certain requirements upon corporate debtors, does not apply.

**SECTION 1129(a)(6)**

Section 1129(a)(6), which requires that a governmental regulatory commission with jurisdiction over rates charged by a debtor approve any rate changes provided for in the plan, does not apply.

**SECTION 1129(a)(7)**

Section 1129(a)(7), known as the "best interests of creditors test," provides in relevant part: "With respect to each impaired class of claims or interests, each holder of a claim or interest of such class has accepted the plan; or will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date."

Classes 5(a), 5(b), and 6(b) are impaired, but their failure to submit a vote will be deemed as acceptance of the Third Amended Plan, based on the transmission of the Supplemental Notice to all stakeholders. *See* Court's ruling [Doc. No. 110]. The Third Amended Plan satisfies the best interests of creditors test under § 1129(a)(7).

**SECTION 1129(a)(8)**

Section 1129(a)(8) requires each class to accept the Plan, unless the class is not impaired.

Classes 5(a), 5(b), and 6(b) are impaired and are deemed to have accepted the Third Amended Plan. Section 1129(a)(8) is satisfied.

**SECTION 1129(a)(9)**

Section 1129(a)(9) requires that holders of certain administrative and priority claims receive cash equal to the allowed claim amount of their claims on the effective date of the plan, unless the claimant agrees to different treatment.

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The Plan provides for the payment of all outstanding allowed administrative claims in full as soon as the fees are approved by the Court and none of the professionals have requested a different payment arrangement. The Third Amended Plan satisfies § 1129(a)(9).

**SECTION 1129(a)(10)**

Section 1129(a)(10) requires that "at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider."

Classes 5(a), 5(b), and 6(b) are impaired and have accepted the Third Amended Plan. Section 1129(a)(10) is satisfied.

**SECTION 1129(a)(11)**

Section 1129(a)(11), known as the "feasibility requirement," requires the Court to find that "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan." In the Ninth Circuit, courts have construed "feasibility" as a "reasonable probability of success," thereby rejecting the notion that successful reorganization must be shown to be certain. *See In re North Valley Mall, LLC*, 432 B.R. 825, 838 (Bankr. C.D. Cal. 2010) (citing *In re Acequia, Inc.*, 7887 F.2d 1352, 1364 – 65 (9th Cir. 1986)). The issue of feasibility is factual and may be satisfied by a "relatively low threshold of proof"—as long as a reorganizing debtor can demonstrate the ability to achieve the terms proposed in a plan, "the *possibility* of failure is not fatal." *See id.* (emphasis in original).

The Debtors budget projections reflect that they will have a net monthly income of \$2,757 with which they are required to make monthly payments of \$2,399.73 under the Third Amended Plan, leaving her with a net monthly income of approximately \$357.27. Based upon its review of the Debtors' recent monthly operating reports, the Court finds that the Third Amended Plan has a reasonable possibility of success, and not likely to be followed by liquidation or further financial reorganization. For the reasons stated above, the Court finds that the Third Amended Plan is consistent with the feasibility standard and complies with § 1129(a) (11).

**SECTION 1129(a)(12)**

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Section 1129(a)(12) requires that the Debtors pay all United States Trustee fees prior to confirmation or provide for payment of those fees on the effective date.

To the Court's knowledge, UST fees are current. To the extent any fees are outstanding, the Plan provides that all such fees will be paid by the Effective Date.

**SECTION 1129(a)(13)**

Section 1129(a)(13), which contains requirements pertaining to the payment of retirement benefits, does not apply.

**SECTION 1129(a)(14)**

Section 1129(a)(14), which contains requirements pertaining to the payment of domestic support obligations, does not apply.

**SECTION 1129(a)(15)**

Section 1129(a)(15) imposes certain requirements upon individual debtors if the holder of an unsecured claim objects to confirmation of the Plan. Section 1129(a)(15) does not apply because no objections to the Third Amended Plan are on file.

**SECTION 1129(a)(16)**

Section 1129(a)(16) provides: "All transfers of property under the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust."

The Plan does not provide for the transfer of any property. The Third Amended Plan satisfies § 1129(a)(16).

**SECTION 1129(b)**

The Court finds that the relevant provisions of § 1129(b) are inapplicable because all classes are deemed to be in favor of the Third Amended Plan.

**SECTION 1129(c)**

Section 1129(c), which states that the court may confirm only one plan in a particular case, is satisfied.

**SECTION 1129(d)**

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Section 1129(d) provides: "Notwithstanding any other provisions of this section, on request of a party in interest that is a governmental unit, the court may not confirm a Plan if the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933."

To the Court's knowledge, no governmental unit has requested that the Court not confirm the Plan claiming the Plan's purpose is the avoidance of taxes or application of section 5 of the Securities Act of 1944. The Amended Plan satisfies § 1129(d).

**Order to Show Cause**

Given that the Debtors have presented a confirmable plan, in accordance with the Court's dates and deadlines, the Court determines that the OSC is discharged.

**Post-Confirmation Status Conference**

A Post-Confirmation Status Conference shall be held on **November 3, 2020, at 10:00 a.m.** A Post-Confirmation Status Report shall be filed by no later than fourteen days prior to the hearing.

**III. Conclusion**

For the reasons set forth above, the Third Amended Plan is CONFIRMED. The Debtors are directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtors' first names are at times used to avoid confusion. No disrespect is intended.

**Note 2:** The Debtors represent in the Confirmation Motion that the treatment intended for non-voting creditors may be found in the Fourth Amended Disclosure Statement,

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the Third Amended Plan, and the amended ballots. *See* Confirmation Motion at 5, 13. However, the Court was only able to identify the provision on non-voting creditors' deemed acceptance of the amended plan on the Supplemental Notice.

**Note 3:** Notwithstanding Debtors' estimated administrative expenses, the Court notes that Debtors' counsel applied for interim fees and expenses in the sum of \$14,028.50 [Doc. No. 70]. Counsel's fees and costs were approved on an interim basis on July 19, 2019 [Doc. No. 79].

**Note 4:** The Court notes that the Third Amended Plan provides otherwise: priority tax "[p]ayments will be made quarterly, due on the first day of the quarter starting on the first such date after the Effective Date..." *See* Plan at 2, Art. I, Section C. The Court has identified this discrepancy at least once before and the Debtors have still not addressed it. Based on the representation made in declarations supporting the Fourth Amended Disclosure Statement, it appears that the Debtors will tender payments on their priority tax debts on a *monthly* basis.

**Note 5:** The Debtors assert that certain unsecured claims which had been previously scheduled are now identified as disputed claims. *See* Fourth Amended Disclosure Statement, Ex. C. Consistent with this position, the Debtors submitted an amended copy of *Schedule E/F* [Doc. No. 123] on May 1, 2020.

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

**Debtor(s):**

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

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**2:18-13731 Samuel Antonio Acevedo and Lucy Acevedo**

**Chapter 11**

**#8.00** Show Cause Hearing re [113] Debtors are directed to appear by telephone<sup>1</sup> and show cause why this case should not be converted or dismissed under 11 U.S.C. § 1112(b)(4)(E) or (J), in view of the Debtors' failure to comply with the instructions of the Court.

fr. 5-5-20

Docket 0

**Tentative Ruling:**

7/21/2020

See Cal. No. 7, incorporated in full by reference.

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

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

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**#9.00** Hearing re [122] Chapter 11 Plan of Reorganization (Third Amended)

Docket 0

**Tentative Ruling:**

7/21/2020

See Cal. No. 7, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez



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2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#10.00 Hearing

RE: [280] Application for Compensation FIRST INTERIM APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES OF GROBSTEIN TEEPLE, LLP AS ACCOUNTANTS FOR THE CHAPTER 11 DEBTORS; DECLARATIONS OF HOWARD B. GROBSTEIN, MICHAEL BONERT, AND VIVIEN BONERT IN SUPPORT THEREOF for Grobstein Teeple LLP, Accountant, Period: 9/12/2019 to 5/31/2020, Fee: \$52,337.75, Expenses: \$0.00

Docket 0

**Tentative Ruling:**

7/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below:

Fees: \$52,337.75

Expenses: \$0.00 (no expenses were requested in the Application)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

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**Chapter 11**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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**2:19-20836 Michael Bonert and Vivien Bonert**

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**#11.00** HearingRE: [282] Application for Compensation of Interim Fees and/or Expenses with proof of service for Fredman Lieberman Pearl LLP, Debtor's Attorney, Period: 9/16/2019 to 5/31/2020, Fee: \$301,764.25, Expenses: \$6384.71. (Forsley, Alan)

Docket 282

**Tentative Ruling:**

7/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below:

Fees: \$301,764.25 (To be paid: \$135,324.96)

Expenses: \$6,384.71

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

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**CONT... Michael Bonert and Vivien Bonert**

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**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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2:20-15501 Chineseinvestors.com, Inc.

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#12.00 Hearing

RE: [71] Emergency Motion Pursuant To 11 U.S.C. §§ 105, 345, 363, 364, and 503 and Fed. R. Bankr. P. 6003 and 6004 for Interim and Final Orders Authorizing Debtor to Continue Using Existing Cash Management System and Chinese Bank Account *Nunc Pro Tunc*

Docket 71

**Tentative Ruling:**

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**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Subject to additional argument that may be presented at the hearing, the Court is prepared to **DENY WITHOUT PREJUDICE** the Cash Management Motion.

**Pleadings Filed and Reviewed:**

- 1) Emergency Motion Pursuant to 11 U.S.C. §§ 105, 345, 363, 364, and 503 and Fed. R. Bankr. P. 6003 and 6004 for Interim and Final Orders Authorizing Debtor to Continue Using Existing Cash Management System and Chinese Bank Account *Nunc Pro Tunc* [Doc. No. 71]
  - a) Order Setting Hearing on Debtor's Emergency Motion for Authorization to Continue Using Existing Cash Management System [Doc. No. 74]
  - b) Notice of Hearing on [Emergency Cash Management Motion] [Doc. No. 76]
  - c) Declaration of Rachel M. Sposato Re: Telephonic Notice of Hearing [Doc. No. 77]
- 2) United States Trustee's Opposition to Emergency Motion Pursuant to 11 U.S.C. §§ 105, 345, 363, 364, and 503 and Fed. R. Bankr. P. 6003 and 6004 for Interim and Final Orders Authorizing Debtor to Continue Using Existing Cash Management System and Chinese Bank Account *Nunc Pro Tunc* [Doc. No. 85]

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**I. Facts and Summary of Pleadings**

**A. Introduction**

ChineseInvestors.com, Inc. (the “Debtor”) filed a voluntary Chapter 11 petition on June 19, 2020 (the “Petition Date”). The Debtor is a financial information web portal that offers news and information regarding financial markets in Chinese. The Debtor also provides investor relations services for companies requiring Mandarin language support, which includes (a) translating client releases into English from Mandarin or vice versa, (b) increasing awareness of clients and their stock, and (c) helping clients move from the pink sheets to more established public securities exchanges.

Beginning in 2017, the Debtor began developing two additional business lines—a domestic and international industrial hemp and cannabidiol (“CBD”) business, and an international foreign exchange and cryptocurrency trading platform. The Debtor devoted a significant portion of its cash flow to these new business lines, which did not prove as successful as had been projected. As a result, the Debtor lacked the ability to repay short-term unsecured notes that began maturing in late 2018 and early 2019, which led to the filing of the petition.

At the end of 2019, the Debtor began scaling down its labor force for its cryptocurrency and industrial hemp businesses. The industrial hemp business was spun out into an independent corporation, Hemp Logic, Inc. (“Hemp Logic”). The Debtor is the majority shareholder in Hemp Logic. The Debtor hopes that as Hemp Logic’s business matures, Hemp Logic will reimburse the Debtor for startup costs in the amount of approximately \$1.1 million.

On July 7, 2020, the Court granted the Debtor’s emergency motion to pay prepetition compensation earned by its employees. Doc. No. 46. On that same date, the Court granted the Debtor’s emergency motion to employ professionals used in the ordinary course of business. Doc. No. 44.

Debtor now moves, on an emergency basis, for authorization to continue to use its existing cash management system (the “Motion”). The United States Trustee (the “UST”) opposes the Motion.

**B. Summary of the Motion**

The Debtor makes the following arguments and representations in support of the Motion:

The Debtor’s primary revenue source consists of subscription payments received from mainly Chinese investors. The Debtor maintains an office in Shanghai, China for its sales representatives (the “Shanghai Sales Office”). Sales representatives at the

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Shanghai Sales Office use their personal WeChat accounts to collect subscription revenues in RMB. (WeChat is a multi-purpose messaging, social media, and mobile payment application developed by Tencent that is widely used in China.) Funds are then transferred from the sales representatives' WeChat accounts to the Debtor's accountant via WeChat Pay. The accountant, who is based in China, converts the funds to cash, deposits the cash in the office safe, and uses the cash to pay expenses incurred by the Shanghai Sales Office. This is necessary because according to Chinese government regulations, the bank account used by the Shanghai Sales Office cannot accept any money except for wire transfers from the Debtor.

All WeChat Pay transactions are reported to the Debtor's accountant in the United States for audit as soon as they are received. Funds collected by the Shanghai Sales Office using the WeChat Pay accounts are deducted from the monthly wire transfer that the Debtor sends to the Shanghai Sales Office. For May 2020, revenue from WeChat Pay transactions was RMB 430,314.85/USD 60,765.69; for June 2020, revenue was RMB 277,620/USD 39,217.

The Debtor has two US bank accounts at JP Morgan Chase: an operating and payroll account (the "Chase Operating Account") and a business account that was previously used solely to process payments received by check (the "Chase Business Account"). The Debtor has two bank accounts based in China: an account at the Bank of China (the "Bank of China Account") and an account at Shanghai Pudong Development Bank (the "Shanghai Newcoins Account").

Funds at the Bank of China Account are used to pay payroll, taxes, and general operating expenses for the Shanghai Sales Office. Chinese government regulations prohibit the Shanghai Sales Office from collecting any money. Instead, funds to operate the Shanghai Sales Office must be wired from the United States to the Bank of China Account.

In April 2018, the Debtor established NewCoins168.com Digital Media Technology Ltd. (Shanghai) ("Shanghai Newcoins"), a wholly-owned subsidiary. Approximately 95% of Shanghai Newcoins' cash flow is comprised of funds that the Debtor transfers to the Shanghai Newcoins Account. The remaining 5% comes from investor relations revenue collected in RMB. Shanghai Newcoins employs professional financial editors and analysts that support the Debtor's business. Shanghai Newcoins was established in China because the cost of labor is lower than in the United States. Employees of Shanghai Newcoins are paid from the Shanghai Newcoins Account. If the Debtor closed the Shanghai Newcoins Account, Shanghai Newcoins would no longer be able to retain the employees who support the Debtor's business.

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Guidelines imposed by the UST (the “UST Guidelines”) require Chapter 11 debtors to deposit all estate funds into an account maintained at an authorized depository that has agreed to comply with all UST requirements. The Bank of China Account is not an authorized depository. The Debtor should be permitted to maintain the Bank of China Account because the Bank of China is financially sound and is a crucial component of the Debtor’s cash management system.

The Debtor should also be permitted to continue collecting subscription revenue using the personal WeChat accounts of employees at the Shanghai Sales Office. Collecting subscription revenue in a different manner would impose an administrative burden upon the Debtor.

Valid post-petition payments from the Debtor to non-debtor affiliates should be accorded administrative expense status. The Debtor requires the continuance of these intercompany transfers to maintain business operations. According administrative expense status to intercompany transfers is necessary to insure that the Debtor will not be required to fund operations of non-debtor affiliates.

**C. Summary of the UST’s Opposition**

The UST makes the following arguments in opposition to the Motion:

The Debtor’s request to maintain the Bank of China Account and the Shanghai Newcoins Account (collectively, the “Chinese Accounts”) should be denied. The Debtor has not proposed to sweep any funds from the Chinese Accounts into its US DIP accounts. The Debtor has not explained the Chinese regulations related to the Chinese Accounts, including whether there are protections to ensure that the funds will not be manipulated, transferred, or frozen during the pendency of the bankruptcy. The UST is concerned that the funds in the Chinese Accounts could be frozen or seized by the Chinese government. There is no assurance that the Debtor will have continued access to funds in the Chinese Accounts throughout the bankruptcy. The Debtor’s use of non-approved foreign bank accounts also makes it extremely difficult for the UST to monitor the Debtor’s monthly operating reports. There is no reason why the Debtor cannot use an approved depository. Certain approved depositories, such as East West Bank, have branches in China.

The Debtor should not be allowed to use the personal WeChat accounts of employees of the Shanghai Sales Office to collect subscription revenue. There is no indication that proper oversight is in place to ensure that the sales representatives report all funds collected.



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**II. Findings and Conclusions**

Section 345 requires that estate property be deposited in authorized depository institutions unless the Court orders otherwise for cause. Local Bankruptcy Rule (“LBR”) 2015-2 requires that debtors-in-possession comply with guidelines and requirements issued by the UST (the “UST Guidelines”).

The Debtor’s continued use of the Bank of China Account and Shanghai Newcoins Account poses serious concerns. First, use of these accounts will make it very difficult for the UST to ensure that the Debtor’s monthly operating reports are compliant. The UST’s oversight responsibilities under 28 U.S.C. § 586 play a critical role in safeguarding the integrity of the estate. Requests for waivers of the UST Guidelines that make the discharge of these responsibilities more difficult are looked upon with disfavor. That is especially the case when there are approved depository accounts with branches in China, such as East West Bank, that the Debtor could use to conduct its business.

Second, maintenance of estate funds in a non-approved account increases the risk that the funds could be frozen or otherwise seized by the Chinese government. Of course, that risk exists with respect to any bank account located in China. The risk, however, is much greater when it comes to a state-owned enterprise such as the Bank of China. State-owned enterprises in China are subject to significantly greater government influence and control than US-based enterprises, such as East West Bank, that do business in China.

The Court understands that compliance with the UST Guidelines imposes an administrative burden upon the Debtor. Such a burden is a cost that the Debtor must bear in exchange for receiving the benefits of bankruptcy protection.

The Debtor’s proposed continued use of the personal WeChat accounts of employees of the Shanghai Sales Office to collect subscription revenues also poses serious concerns. The Court has not been provided with sufficient evidence that this method of collecting revenue is subject to effective oversight or audit.

The Debtor seeks an order granting administrative expense status to transfers to its non-debtor affiliates. The Debtor has failed to show why it is necessary for this relief to be granted on an emergency basis. According inter-company transfers administrative expense status affects all creditors of the estate. That is why administrative status is accorded only to claimants who can show, after notice and a hearing, that their claims qualify as an “actual” and “necessary” cost of preserving the estate. It is not appropriate for the Court to prospectively accord administrative status to future intercompany transfers that have not yet even been identified. To the extent that inter-company transfers are made in the ordinary course of business, court

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approval is not required. *See* § 363(c)(1). But such transfers will be accorded administrative status only upon the granting of a motion brought under § 503(b).

The Debtor's request that post-petition intercompany transfers be deemed a loan to the non-debtor affiliate, rather than a contribution of capital, is denied without prejudice. No detail has been furnished as to the nature of these future transfers. The Debtor may seek such relief by way of a properly noticed Motion that sets forth in detail the basis for the characterization of the transfers.

**III. Conclusion**

Based upon the foregoing, and subject to additional argument which may be presented at the hearing, the Court is prepared to **DENY** the Motion without prejudice.

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

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

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**2:10-62208 EPD Investment Co., LLC**

**Chapter 7**

**#100.00** HearingRE: [1312] Application for Compensation Second Interim Application for Award of Compensation and Reimbursement of Expenses of Robert A. Hessling, APC, as General Counsel for Trustee; and Declarations of Jason M. Rund and Robert A. Hessling, with Proof of Service for Robert A. Hessling, APC, Trustee's Attorney, Period: 11/1/2013 to 5/31/2020, Fee: \$290,337.00, Expenses: \$2,198.13. (Hessling, Robert)

Docket 1312

**Tentative Ruling:**

7/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion to Remove the Chapter 7 Trustee is **DENIED**, the Motion to Dismiss for Failure to Prosecute is **DENIED**, and the Second Interim Fee Application filed by Robert A. Hessling, APC is **GRANTED IN PART AND DENIED IN PART**. The BC Trust shall file a motion for summary judgment (the "MSJ") by no later than **August 26, 2020**, and shall set the MSJ for hearing on an available subsequent date on the Court's calendar such that the Trustee is provided sufficient notice under the Local Bankruptcy Rules. If the MSJ does not dispose of the action, a Pretrial Conference is set for **December 15, 2020, at 11:00 a.m.**

**Pleadings Filed and Reviewed:**

- 1) Motion to Dismiss for Failure to Prosecute:
  - a) Notice of Motion and Motion to Dismiss Complaint for Failure to Prosecute [Adv. Doc. No. 399]
    - i) Defendant Bright Conscience Trust's Memorandum of Points and Authorities in Support of Motion to Dismiss for Failure to Prosecute— Amended [amended solely for the purpose of including table of authorities and table of contents, which were accidentally omitted from the original

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- filing] [Adv. Doc. No. 402]
- ii) Declaration of Stephen E. Hyam in Support of Defendant Bright Conscience Trust's Motion to Dismiss for Failure to Prosecute [Adv. Doc. No. 399-2]
- iii) Appendix of Evidence and Request for Judicial Notice in Support of Motion to Dismiss for Failure to Prosecute [Adv. Doc. No. 399-3]
- iv) Amended and Corrected Proof of Service [Adv. Doc. No. 400]
- b) Chapter 7 Trustee's Opposition to Defendant Bright Conscience Trust's Motion to Dismiss for Failure to Prosecute [Adv. Doc. No. 404]
  - i) Chapter 7 Trustee's Request for Judicial Notice in Support of Opposition to Defendant Bright Conscience Trust's Motion to Dismiss for Failure to Prosecute [Adv. Doc. No. 405]
  - ii) Declaration of Corey R. Weber in Support of Chapter 7 Trustee's Opposition to Defendant Bright Conscience Trust's Motion to Dismiss for Failure to Prosecute [Adv. Doc. No. 406]
  - iii) Evidentiary Objections to Declaration of Stephen E. Hyam in Support of Defendant Bright Conscience Trust's Motion to Dismiss for Failure to Prosecute [Adv. Doc. No. 407]
- c) Defendant Bright Conscience Trust's Reply in Support of Motion to Dismiss for Failure to Prosecute [Adv. Doc. No. 408]
- 2) Motion to Disqualify Trustee:
  - a) Creditor Bright Conscience Trust's and Party in Interest John C. Kirkland's Notice of Motion and Motion to Disqualify Trustee [Bankr. Doc. No. 1315]
    - i) Creditor Bright Conscience Trust's and Party in Interest John C. Kirkland's Amended Memorandum of Points and Authorities in Support of Motion to Disqualify Trustee [amended solely for the purpose of including table of authorities and table of contents, which were accidentally omitted from the original filing] [Bankr. Doc. No. 1319]
    - ii) Declaration of Stephen E. Hyam in Support of Defendants John C. Kirkland and Bright Conscience Trust's Motion to Disqualify the Trustee [Bankr. Doc. No. 1315-3]
    - iii) Appendix of Evidence and Request for Judicial Notice in Support of Motion to Disqualify Trustee [Bankr. Doc. No. 1315-4]
  - b) Trustee's Opposition to Motion of Creditor Bright Conscience Trust's and Party in Interest John C. Kirkland's Notice of Motion and Motion to Disqualify Trustee [Bankr. Doc. No. 1322]
    - i) Joinder of Robert A. Hessling, APC, Brutzkus Gubner Rozansky Seror

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- Weber, LLP, and Development Specialists, Inc. in Trustee's Opposition to Motion of Creditor Bright Conscience Trust's and Party in Interest John C. Kirkland's Notice of Motion and Motion to Disqualify Trustee [Bankr. Doc. No. 1323]
- ii) Trustee's Supplemental Request for Judicial Notice in Support of Trustee's Opposition to Motion of Creditor Bright Conscience Trust's and Party in Interest John C. Kirkland's Notice of Motion and Motion to Disqualify Trustee [Bankr. Doc. No. 1327]
  - c) Creditor Bright Conscience Trust's and Party in Interest John C. Kirkland's Reply in Support of Their Motion to Disqualify Trustee [Bankr. Doc. No. 1330]
- 3) Second Interim Fee Application of Robert A. Hessling, APC, General Counsel to the Chapter 7 Trustee:
- a) Notice to Professionals of Hearing on Applications for Awards of Compensation and Reimbursements of Expenses [Bankr. Doc. No. 1310]
  - b) Second Interim Application for Award of Compensation and Reimbursement of Expenses of Robert A. Hessling, APC, as General Counsel for Trustee [Bankr. Doc. No. 1312] (the "RAH Fee Application")
    - i) Notice of Hearing on Second Interim Application for Award of Compensation and Reimbursement of Expenses of Robert A. Hessling, APC, as General Counsel for Trustee [Bankr. Doc. No. 1313]
  - c) Creditor Poshow Ann Kirkland as Trustee and Party in Interest John C. Kirkland's Opposition to Motion for Payment of Interim Fees and Costs and Demand for Adequate Protection [Bankr. Doc. No. 1325]
    - i) Declaration of Stephen E. Hyam in Support of Creditor Poshow Ann Kirkland as Trustee and Party in Interest John C. Kirkland's Opposition to Motion for Payment of Interim Fees and Costs and Demand for Adequate Protection [Bankr. Doc. No. 1325-1]
    - ii) Appendix of Evidence and Request for Judicial Notice in Support of Creditor Poshow Ann Kirkland as Trustee and Party in Interest John C. Kirkland's Opposition to Motion for Payment of Interim Fees and Costs and Demand for Adequate Protection [Bankr. Doc. No. 1325-2]
    - iii) Proof of Service [Bankr. Doc. No. 1325-3]
  - d) Reply of Robert A. Hessling, APC, to Opposition and Demand for Adequate Protection by the Bright Conscience Trust Dated September 9, 2009 and John C. Kirkland Re Second Interim Application for Award of Compensation and Reimbursement of Expenses of Robert A. Hessling, APC, as General Counsel

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for Trustee [Bankr. Doc. No. 1328]

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## **I. Facts and Summary of Pleadings**

### **A. Introduction**

Poshow Ann Kirkland, solely in her capacity as Trustee of the Bright Conscience Trust Dated September 9, 2009 (the "BC Trust") and John C. Kirkland ("Kirkland," and together with the BC Trust, the "Movants") move to remove Jason M. Rund, the Chapter 7 Trustee (the "Trustee"), pursuant to § 324(a) (the "Removal Motion"). The BC Trust moves to dismiss the adversary proceeding captioned *Rund v. John C. Kirkland and the BC Trust* [Adv. No. 2:12-ap-02424-ER] for failure to prosecute (the "Motion to Dismiss"). The Trustee opposes the Removal Motion and the Motion to Dismiss.

Robert A. Hessling, APC ("RAH"), the Trustee's general counsel, applies for the allowance of fees in the amount of \$290,337.00 and costs in the amount of \$2,198.13, on an interim basis (the "RAH Fee Application"). RAH seeks payment of 60% of the allowed fees (i.e., \$174,202.20) and 100% of the allowed costs, with the remaining 40% of allowed fees (i.e., \$116,134.80) to be paid only upon further order of the Court. Brutzkus Gubner Rozansky Seror Weber LLP ("Brutzkus Gubner"), the Trustee's special litigation counsel, and Berkeley Research Group, LLC ("BRG") and Development Specialists, Inc. ("DSI"), the Trustee's accountants and financial advisors [Note 1], have not submitted interim fee applications. The BC Trust opposes the RAH Fee Application. It contends that the funds in the estate are subject to its security interest and may not be used to pay professional fees absent adequate protection, which according to the BC Trust has not been provided.

### **B. Procedural Background**

To provide necessary context for the motions, the Court sets forth a detailed description of this matter's procedural history.

On December 7, 2010, creditors filed an involuntary petition against EPD Investment Co., LLC ("EPD"). Bankr. Doc. No. 1. [Note 2] The Court entered an Order for Relief on February 9, 2011. Bankr. Doc. No. 29. On February 1, 2012, Jerrold S. Pressman ("Pressman") filed a voluntary Chapter 7 petition. On June 4, 2012, the bankruptcy cases of EPD and Pressman (collectively, the "Debtors") were substantively consolidated. Bankr. Doc. No. 227.

On October 31, 2012, the Trustee filed the complaint commencing this adversary proceeding. Adv. Doc. No. 1. The Trustee filed a First Amended Complaint on December 7, 2012. Adv. Doc. No. 14. On April 8, 2013, the Court approved a

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stipulation authorizing the Trustee to file a Second Amended Complaint without leave of court. Adv. Doc. No. 39. On May 24, 2013, the Trustee filed a Second Amended Complaint, which named as defendants John C. Kirkland ("Kirkland") and Poshow Ann Kirkland ("Poshow Kirkland"), individually and in her capacity as Trustee of the BC Trust. Adv. Doc. No. 45. (As used hereafter, "BC Trust" means Poshow Kirkland, solely in her capacity as Trustee of the BC Trust and "Poshow Kirkland" means Poshow Ann Kirkland, solely in her individual capacity.)

On September 24, 2013, the District Court denied Kirkland's motion to withdraw the reference. Adv. Doc. No. 72. On November 15, 2013, the Court denied a motion to compel arbitration and stay the adversary proceeding (the "Arbitration Motion") brought by Kirkland and joined by Poshow Kirkland and the BC Trust. Adv. Doc. Nos. 87 (final ruling denying Arbitration Motion) and 92 (order denying Arbitration Motion). On April 9, 2014, the District Court affirmed the denial of the Arbitration Motion. Adv. Doc. No. 159. On May 9, 2016, the Ninth Circuit affirmed the denial of the Arbitration Motion. *Kirkland v. Rund (In re EPD Inv. Co., LLC)*, 821 F.3d 1146 (9th Cir. 2016). On June 16, 2016, the Ninth Circuit denied a petition for a rehearing *en banc* filed by Kirkland, Poshow Kirkland, and the BC Trust.

On January 27, 2014, the Court granted Kirkland's motion to stay the adversary proceeding, pending the resolution of the appeal of the denial of the Arbitration Motion. Adv. Doc. No. 151. On June 23, 2016, the Court entered an order providing notice that the stay of the adversary proceeding had terminated. Adv. Doc. No. 194.

On July 27, 2016, the Court dismissed the Second Amended Complaint with respect to Poshow Kirkland, but gave the Trustee leave to amend. Adv. Doc. Nos. 200 and 210. On August 2, 2016, the Court denied the Trustee's motion for entry of default against Poshow Kirkland and the BC Trust. Adv. Doc. No. 213. On August 12, 2016, the Trustee filed a Third Amended Complaint. Adv. Doc. No. 215. On October 7, 2016, the Court dismissed the Third Amended Complaint as to Poshow Kirkland, without prejudice. Adv. Doc. Nos. 228 and 232.

On October 14, 2016, the Trustee filed the operative Fourth Amended Complaint. Adv. Doc. No. 234. The Fourth Amended Complaint named Poshow Kirkland as a defendant only in her capacity as Trustee of the BC Trust, not in her individual capacity. The Fourth Amended Complaint seeks to (1) disallow or equitably subordinate proofs of claim filed by the BC Trust and (2) avoid allegedly fraudulent transfers from the Debtors to Kirkland and the BC Trust.

On December 4, 2017, the Court authorized the Trustee to pay Brutzkus Gubner, his special litigation counsel, prior allowed interim fees in the amount of \$692,377. Bankr. Doc. No. 1236 (the "Interim Fee Order"). The Interim Fee Order was issued

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over the objection of the BC Trust, which asserted that it held a security interest in the funds earmarked for the payment of Brutzkus Gubner's fees.

As of the date of issuance of the Interim Fee Order, the estate held funds in the amount of \$3,376,977.18. The primary sources of these funds were as follows [**Note 3**]:

- 1) Settlements of the Trustee's avoidance claims, in the amount of \$3,811,650.83.
- 2) Settlements with two of Kirkland's prior law firms, in the aggregate amount of \$1,250,000.00.
- 3) A settlement with Robert Geringer, whereby Geringer paid the estate \$3,615,817.85, representing the amount that Geringer paid Pressman for stock in North Hills Industrial Park, Inc.
- 4) Proceeds from the sale of stock in Ice Skating Enterprises, Inc. ("Ice Skating Enterprises"), in the net amount of \$54,558.83.
- 5) Proceeds in the amount of \$50,000 in connection with Mr. Pressman's stock ownership in Sidecreek Development, Inc. ("Sidecreek Development").

In its final ruling articulating the reasons for the Interim Fee Order [Bankr. Doc. No. 1235] (the "Fee Memorandum"), the Court found that the security interest asserted by the BC Trust could, at most, attach only to \$104,558.83 of the estate's funds, consisting of the proceeds from the Trustee's sale of the Ice Skating Enterprise stock and Sidecreek Development stock. Fee Memorandum at 12–20. The Court authorized the payment of Brutzkus Gubner's fees based upon a finding that the funds remaining in the estate would be more than sufficient to protect any security interest held by the BC Trust. (The Court made no determination as to whether the BC Trust did in fact hold a valid security interest. Fee Memorandum at 20.)

The BC Trust timely appealed the Interim Fee Order, but subsequently dismissed that interlocutory appeal pursuant to a stipulation preserving the BC Trust's right to seek review of any final order on the allowance and payment of the fees of the estate's professionals. Bankr. Doc. Nos. 1238 (BC Trust's appeal of Interim Fee Order) and 1254 (BC Trust's dismissal of interlocutory appeal).

On February 17, 2018, the Court transmitted to the District Court a Report and Recommendation regarding the Trustee's motion for summary adjudication of his avoidance claims against Kirkland and the BC Trust. Adv. Doc. No. 341 (the "Report and Recommendation"). The Court recommended that the District Court enter final judgment in favor of the Trustee, and against Kirkland and the BC Trust, with respect



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to the Trustee's claims for avoidance and recovery of actually fraudulent transfers. Report and Recommendation at 18.

Concurrently with the transmittal of the Report and Recommendation, the Court entered a Memorandum of Decision on the Trustee's motion for summary adjudication of his claims to disallow, or in the alternative equitably subordinate, the proofs of claim filed by the BC Trust (the "Memorandum of Decision") [Adv. Doc. No. 340]. Because the issues addressed in the Memorandum of Decision substantially overlapped with those addressed in the Report and Recommendation, the Court stated that the findings set forth in the Memorandum of Decision would not become the order of the Court until the District Court acted upon the Report and Recommendation. Memorandum of Decision at 3.

In the Memorandum of Decision, the Court relied upon the Fee Memorandum to make the preliminary finding that the security interest asserted by the BC Trust could attach only to \$104,588.83 in proceeds arising from the Trustee's sale of the Ice Skating Enterprise and Sidecreek Development stock. Memorandum of Decision at 10–14. The Court also preliminarily found that although the BC Trust held an allowed secured claim in the amount of \$1,116,755.41, such claim was subject to being equitably subordinated to the allowed claims of all other unsecured creditors. *Id.* at 10 and 14–16.

On June 25, 2018, the District Court rejected the Report and Recommendation and denied the Trustee's motion for summary adjudication of his fraudulent transfer claims against Kirkland. *Rund v. Kirkland (In re EPD Investment Co., LLC)*, 587 B.R. 711 (C.D. Cal. 2018). On August 13, 2018, the District Court denied the Trustee's motion for reconsideration of that ruling. *Rund v. Kirkland (In re EPD Investment Co., LLC)*, 595 B.R. 910 (C.D. Cal. 2018).

On September 20, 2018, the Court ordered the parties to show cause why adjudication of the Trustee's claims against the BC Trust should not be stayed until after the District Court had entered final judgment on the Trustee's claims against Kirkland [Adv. Doc. No. 372] (the "Order to Show Cause"). The Court reasoned:

As a result of the overlap between the claims asserted against Mr. Kirkland and the claims asserted against the BC Trust, the most efficient means for this action to proceed would be for the District Court to first adjudicate the claims against Mr. Kirkland. Once the District Court has entered findings with respect to Mr. Kirkland, the Bankruptcy Court can then try the claims against the BC Trust. If the Bankruptcy Court tried claims against the BC Trust prior to the District Court's trial of claims against Mr. Kirkland, findings by the

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Bankruptcy Court with respect to common issues of fact could prejudice Mr. Kirkland.

Final Ruling Dated September 11, 2018 [Adv. Doc. No. 371].

After the Court issued the Order to Show Cause, the Trustee filed a motion seeking authorization to abandon his fraudulent transfer claims against Kirkland and the BC Trust [Bankr. Doc. No. 1278] (the "Abandonment Motion"). The Court took the hearing on the Order to Show Cause off calendar, finding that it was mooted by the Abandonment Motion. Adv. Doc. No. 380. On November 19, 2018, the Court denied the Abandonment Motion. Bankr. Doc. No. 1294. The Court found that the Abandonment Motion was a procedurally improper attempt by the Trustee to engineer the partial dismissal of the Complaint, over the opposition of Kirkland and the BC Trust, without complying with the provisions governing partial dismissal set forth in Civil Rule 15. Bankr. Doc. No. 1290 at 10.

On December 17, 2018, the District Court withdrew the reference of this adversary proceeding from the Bankruptcy Court. *Rund v. Kirkland (In re EPD Investment Co., LLC)*, 594 B.R. 423 (C.D. Cal. 2018). The District Court withdrew the reference as to the claims against Kirkland based upon Kirkland's right to a jury trial conducted by the District Court. *Id.* at 426. Observing the "common issues of fact and the overlapping nature of the claims against the BC Trust and John Kirkland," the District Court found that "judicial economy and the uniformity of bankruptcy administration ... would be best served by withdrawing the entire action." *Id.*

On March 25, 2019, the District Court denied the Trustee's motion for entry of final judgment, pursuant to Civil Rule 54(b), on his first claim for relief to disallow or equitably subordinate the proofs of claim filed by the BC Trust. The District Court rejected the Trustee's argument that it should enter a final judgment adopting the findings set forth in the Bankruptcy Court's Memorandum of Decision:

No final judgment has been rendered as to any claim against the BC Trust. See *Curtiss-Wright*, 446 U.S. at 7, 100 S.Ct. 1460 (in the context of Rule 54(b), a "final judgment" is "an ultimate disposition of an individual claim entered in the course of a multiple claims action."). This Court has made no ruling since it withdrew the reference. The bankruptcy court's [Memorandum of Decision] was not a final judgment. The [Memorandum of Decision] itself provides that it would become an order of the court if and only if the district court adopted the [Report and Recommendation], which did not occur. The bankruptcy court's own statement that—because the claims against the BC Trust and the

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claims against John Kirkland involve common issues of fact—it would try the claims against the BC Trust only after this Court tried the claims against John Kirkland confirms that the bankruptcy court did not render a final judgment in its [Memorandum of Decision].

*Rund v. Kirkland (In re EPD Investment Co., LLC)*, 597 B.R. 899, 901 (C.D. Cal. 2018).

On June 4, 2019, the District Court granted the Trustee's motion to bifurcate the trial of the (1) disallowance, equitable subordination, and fraudulent transfer claims against the BC Trust and (2) the fraudulent transfer claims against Kirkland. District Court Doc. No. 117. A six-day jury trial of the Trustee's claims against Kirkland was conducted between June 25, 2019 and July 3, 2019 (the "District Court Trial"). District Court Doc. Nos. 180–86. Specifically, the Trustee sought to avoid, as actually and constructively fraudulent, \$104,852.82 in payments made by the Debtors towards the mortgage on Kirkland's home (the "Mortgage Transfers").

The jury returned a verdict in favor of Kirkland. In reaching its verdict, the jury found that EPD was a Ponzi scheme, *see* Verdict Form re Ponzi Scheme [District Court Doc. No. 174]; that Kirkland was not an insider of EPD and/or Pressman, *see* Verdict Form re Insider [District Court Doc. No. 174]; that EPD and/or Pressman transferred property to Kirkland to hinder, delay, and defraud one or more of their creditors, *see* Verdict Form No. 1 (Actual Fraud—California Law) at Question 3 and Verdict Form No. 2 (Actual Fraud—Bankruptcy Code) at Question 3 [District Court Doc. No. 174]; and that Kirkland received the Mortgage Transfers in good faith and for reasonably equivalent value, *see* Verdict Form No. 1 (Actual Fraud—California Law) at Questions 4–5; Verdict Form No. 2 (Actual Fraud—Bankruptcy Code) at Questions 4–5; Verdict Form No. 3 (Constructive Fraud—California Law) at Question 3; and Verdict Form No. 5 (Constructive Fraud—Bankruptcy Code) at Question 3 [District Court Doc. No. 174].

After the jury returned its verdict, the District Court requested briefing regarding whether (1) the jury's findings as to Kirkland were binding as to the Trustee's claims against the BC Trust and whether (2) the District Court should adjudicate the claims against the BC Trust or refer the claims back to the Bankruptcy Court.

With respect to the first issue, the Trustee argued that the jury's findings were binding only to the extent that the requirements for issue preclusion had been satisfied. Citing the standard for issue preclusion set forth in *Town of North Bonneville v. Callaway*, 10 F.3d 1505, 1508 (9th Cir. 1993), the Trustee argued that only jury findings that were "critical and necessary" to the jury's verdict in favor of

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Kirkland remained binding. The Trustee maintained that the jury's finding that EPD was a Ponzi scheme was critical and necessary to its verdict, but that the finding that Kirkland was not an insider was not critical and necessary. The BC Trust asserted that all of the jury's explicit and implicit factual determinations remained binding. In support of this position, the BC Trust cited *Teutscher v. Woodson*, 835 F.3d 936, 944 (9th Cir. 2016), in which the court held that "in a case where legal claims are tried by a jury and equitable claims are tried by a judge ... the trial judge must follow the jury's implicit or explicit determinations in deciding the equitable claims."

With respect to the second issue, the Trustee argued that his claims for disallowance and equitable subordination against the BC Trust should be remanded to the Bankruptcy Court. The Trustee asserted that judicial economy and uniformity of bankruptcy administration would be served by remand. The Trustee emphasized that his claims against the BC Trust would be affected by findings made by the Bankruptcy Court in the Fee Memorandum. The BC Trust opposed remand. It argued that remand would be inefficient and would risk inconsistent findings. The BC Trust noted that the jury's verdict contradicted the preliminary findings made by the Bankruptcy Court in the Memorandum of Decision. (Many of the findings in the Memorandum of Decision were a restatement of findings previously made in the Fee Memorandum.)

On October 3, 2019, the District Court remanded the Trustee's claims against the BC Trust to the Bankruptcy Court, and dismissed Count 1 of the Fourth Amended Complaint as to Kirkland. District Court Doc. No. 189. The District Court stated that it saw no reason why the Bankruptcy Court could not rely upon the testimony provided during the jury trial in adjudicating the claims against the BC Trust. *Id.* The District Court has not yet entered any judgment in connection with the jury's verdict in favor of Kirkland.

**C. Summary of Papers Filed in Connection with the Removal Motion**

*1. Summary of the Removal Motion*

Movants contend that the Trustee should be removed and replaced for cause pursuant to § 324, because he has an interest materially adverse to the interest of the estate. Movants make the following arguments and representations in support of the Removal Motion:

The Trustee and his professionals have demonstrated that they are acting for the benefit of the professionals, not for the benefit of the estate and its creditors. For the previous eight years, the Trustee and his professionals have pursued Movants on two

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claims that had no value to the estate. As to Kirkland, the Trustee sought to recover the \$104,852.82 in Mortgage Transfers. In 2013, Kirkland made an offer under Civil Rule 68 to settle the claims for \$110,000, plus fees and costs. The Trustee refused this offer.

The jury's verdict in Kirkland's favor was a devastating blow to the Trustee's claims against the BC Trust. The claims against the BC Trust are based entirely on Kirkland's alleged wrongful conduct. Because the jury found that Kirkland is not an insider and that he received the Mortgage Transfers in good faith, the Trustee cannot prevail upon his claims against the BC Trust.

The Trustee and his professionals have recovered approximately \$8.8 million in assets but have incurred more than \$6.1 million in professional fees. The Trustee's professionals will be required to disgorge millions of dollars in professional fees if the Trustee does not succeed in disallowing the BC Trust's claim. This creates an inherent and irreconcilable conflict of interest, which mandates the removal of the Trustee and his professionals. As a fiduciary to the estate, the Trustee "must represent all creditors without partiality." *Dye v. Brown (In re AFI Holding, Inc.)*, 530 F.3d 832, 844 (9th Cir. 2008). Since the Trustee's professionals will be required to disgorge substantial fees unless they defeat the BC Trust's claim, they cannot satisfy this standard of impartiality.

Had the Trustee not allowed professional fees to go unchecked in his litigation against Movants, there would have been sufficient proceeds to pay the BC Trust's claim. Now, the estate is administratively insolvent and the Trustee and his professionals are litigating not for the benefit of the estate, but in an effort to mitigate against the risk of disgorgement.

*2. Summary of the Trustee's Opposition to the Removal Motion*

The Trustee makes the following arguments and representations in opposition to the Removal Motion:

"Removal of a trustee is an extreme remedy." *In re JMW Auto Sales*, 494 B.R. 877, 889 (Bankr. S.D. Tex. 2013). A trustee's actions in administering the estate "are protected by a business judgment standard.... Accordingly, 'a trustee will not be removed for mistakes in judgment where the judgment is discretionary and reasonable under the circumstances.'" *In re Tres-Ark, Inc.*, 483 B.R. 460, 466 (Bankr. W.D. Tex. 2012).

The Trustee's decision to pursue litigation against Movants was within his business judgment. The BC Trust asserted a secured claim in the sum of \$3,529,000

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plus interest, as well as several duplicate claims. It was reasonable for the Trustee to attack the validity of the BC Trust's claims.

Kirkland's Rule 68 offer did not include the claims asserted by the BC Trust. The Trustee is not at liberty to discuss his business judgment regarding his non-acceptance of the offer, since it would require him to divulge settlement communications in violation of Evidence Rule 608. However, even if the Trustee had accepted the offer, it still would have been necessary for the Trustee to deal with the BC Trust's claims.

Contrary to Movants' allegations, the jury's verdict in favor of Kirkland did not deal a devastating blow to the Trustee's claims against the BC Trust. The jury's verdict had no effect on the Trustee's disallowance claim against the BC Trust.

Movants fail to mention that had they not opposed the Abandonment Motion brought by the Trustee, the Trustee would not have been required to proceed with the expensive jury trial in the District Court. They also neglect to mention that the litigation would have been greatly simplified had Movants not opposed the Trustee's motion before the District Court for entry of final judgment under Civil Rule 54(b) with respect to the Trustee's claims against the BC Trust.

*3. Summary of Movants' Reply in Support of the Removal Motion*

Movants make the following arguments and representations in their reply in support of the Removal Motion:

This case has been so mismanaged that it is administratively insolvent by at least seven figures. The general unsecured creditors could have, and should have, received millions of dollars in distributions many years ago. Instead, the Trustee spent a decade burning up all the cash for himself and his cohorts, leaving nothing for creditors. The Trustee has violated his duty to marshal the assets of the estate "so that those assets can be distributed to the estate's creditors." *In re KVN Corp., Inc.*, 514 B.R. 1, 5 (9th Cir. BAP 2014).

The Trustee's attempt to hide behind the business judgment rule fails, because his actions were unreasonable, negligent, and not taken in good faith. There is no dispute that Rund rejected Kirkland's 2013 Rule 68 offer for more than 100% of the complaint's prayer and, more than five years later, improperly tried to abandon the claim against Kirkland rather than request dismissal under Civil Rule 41. The only reason that Rund did not seek dismissal is because it would have resulted in Kirkland being the prevailing party.

Because the estate is administratively insolvent, the Trustee is no longer acting as a fiduciary for creditors. Instead, the Trustee is now solely working for himself and

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his professionals. If the Trustee does not win against the BC Trust, his professionals risk disgorgement. The Trustee is no longer acting as a "trustee" in any meaningful sense of the word, and therefore he must be removed.

**D. Summary of Papers Filed in Connection with the Motion to Dismiss**

*1. Summary of the Motion to Dismiss*

The BC Trust moves to dismiss the adversary proceeding pursuant to Civil Rule 41 for failure to prosecute. The BC Trust makes the following arguments and representations in support of the Motion to Dismiss:

After the jury trial against Kirkland, the District Court remanded the claims against the BC Trust to the Bankruptcy Court at the Trustee's request and over the BC Trust's opposition. The Trustee has not taken any action to move this case forward. The Trustee failed to act because he and his professional have an interest adverse to the estate. As discussed in the Removal Motion, unless the Trustee succeeds in invalidating the BC Trust's claims, the Trustee's professionals will be required to disgorge millions of dollars in professional fees. Yet the jury's findings in Kirkland's favor are devastating to the Trustee's claims against the BC Trust.

The delay has prejudiced the BC Trust in two ways. First, witnesses' memories have further degraded. One of the Trustee's key witnesses is Lisa Underkoffler, a secretary at Luce Forward, Kirkland's former law firm. When deposed on May 25, 2017, Underkoffler testified more than ninety times that she could not recall. The additional delay will have only further impaired Underkoffler's memory. Second, the BC Trust will be required to bear the costs of preparing for trial a second time. These costs could have been avoided if the matter had been concluded promptly after the jury trial.

*2. Summary of the Trustee's Opposition to the Motion to Dismiss*

The Trustee makes the following arguments and representations in opposition to the Motion to Dismiss:

Contrary to the BC Trust's contention, the Trustee has not failed to prosecute this action. The Trustee has complied with all orders on the scheduling of this adversary proceeding. The Court, and not the Trustee, determines whether trial is necessary as to the claims against the BC Trust, and whether the preliminary findings set forth in the Memorandum of Decision should become the judgment of the Court. Further, the BC Trust makes no mention of the COVID-19 pandemic, which has restricted

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physical access to the courthouse and therefore made it more difficult for a trial to go forward.

The BC Trust asserts that it is prejudiced by having to incur fees to prepare for trial a second time. Yet if Kirkland and the BC Trust had not opposed the Abandonment Motion, Kirkland would not have incurred attorneys' fees for the jury trial. When Kirkland raised the issue of the Trustee causing the estate to unnecessarily incur fees and costs by litigating the claims against him, the District Court told Kirkland's counsel that the Trustee tried to abandon the claims against Kirkland prior to the jury trial, and said that because Kirkland and the BC Trust had opposed abandonment, Kirkland was "pointing the arrows in the wrong place." Adv. Doc. No. 46, Ex. A, at 16.

*3. Summary of BC Trust's Reply in Support of the Motion to Dismiss*

The BC Trust makes the following arguments and representations in support of the Motion to Dismiss:

The Trustee has failed to offer any reasonable excuse for his failure to take any action to prosecute this matter to final judgment for the last year. The Trustee places the responsibility for the delay on the Court, arguing that "following the return of the claims against the BC Trust to this Court, it is for the Court, and not the Trustee, to determine the timing of entering a judgment as to the claims against the BC Trust or setting a schedule if any issues are to be tried by the Court ...." Adv. Doc. No. 404 at 13. This excuse fails as a matter of law. "It is a well-established rule that the duty to move a case is on the plaintiff and not on the defendant or the court." *Tenorio v. Osinga (In re Osinga)*, 91 B.R. 893, 896 (B.A.P. 9th Cir. 1988). The Trustee's argument is inconsistent with the framework of the adversary system, which "relies chiefly on the *parties* to raise significant issues and present them to the courts in the appropriate manner at the appropriate time for adjudication." *Sanchez-Llamas v. Oregon*, 548 U.S. 331, 356, 126 S. Ct. 2669, 2685, 165 L. Ed. 2d 557 (2006).

**E. Summary of Papers Filed in Connection with the RAH Fee Application**

Robert A. Hessling, APC ("RAH"), the Trustee's general counsel, applies for the allowance of fees in the amount of \$290,337.00 and costs in the amount of \$2,198.13, on an interim basis. RAH seeks payment of 60% of the allowed fees (i.e., \$174,202.20) and 100% of the allowed costs, with the remaining 40% of allowed fees (i.e., \$116,134.80) to be paid only upon further order of the Court.

Kirkland and the BC Trust oppose the RAH Fee Application. They assert that the



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funds in the estate are subject to the BC Trust's security interest and therefore constitute the BC Trust's cash collateral, and that such funds may not be used to pay professional fees because the Trustee has not provided adequate protection.

RAH disputes the contention that funds in the estate constitute the BC Trust's cash collateral. RAH points to the Fee Memorandum, in which the Court held that even if the BC Trust held a security interest, it could at most attach to only \$104,558.83 of the estate's funds. Since cash on hand in the estate amounted to \$2,715,318.80 as of May 21, 2020, RAH asserts that there are sufficient unencumbered funds available to pay the fees and costs it requests.

## **II. Findings and Conclusions**

### **A. The Motion to Dismiss for Failure to Prosecute is Denied**

At the outset, the Court notes that many of the arguments advanced by both the Trustee and the BC Trust are directed toward the merits of the case, and are not relevant to the sole issue presented by the motion—whether dismissal for failure to prosecute is warranted under Civil Rule 41. Irrelevant arguments include without limitation (1) the Trustee's assertions regarding the extent to which the jury's findings remain binding upon this Court and (2) the BC Trust's contention that the jury's findings as to Kirkland are fatal to the Trustee's claims against the BC Trust. The parties will have the opportunity to present arguments on the merits at the appropriate time. Such arguments will not be considered in the context of this motion.

The Trustee has submitted evidentiary objections to the Declaration of Stephen E. Hyam [Adv. Doc. No. 399-2] (the "Hyam Decl.") offered in support of the Motion to Dismiss. The portions of the Hyam Decl. to which the Trustee objects are not relevant to the issue of whether the Trustee has failed to diligently prosecute this action. It is not necessary for the Court to rule upon the evidentiary objections since the Court has not considered the testimony to which the Trustee objects. *See Operating Engineers' Pension Trust Fund v. Clark's Welding & Mach.*, 688 F. Supp. 2d 902, 907 (N.D. Cal. 2010) ("Because the Court does not rely on the statements in this declaration, it is not necessary for the Court to rule on these objections.").

Civil Rule 41(b), made applicable to these proceedings by Bankruptcy Rule 7041, provides in relevant part: "If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) ... operates as an adjudication on the merits."

The Court weighs five factors in determining whether to dismiss a case for lack of prosecution:

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- 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 defendants;
- 4) the public policy favoring the disposition of cases on their merits; and
- 5) the availability of less drastic sanctions.

*Moneymaker v. CoBEN (In re Eisen)*, 31 F.3d 1447, 1451 (9th Cir. 1994).

There are three sub-parts to the fifth factor, the availability of less drastic sanctions: "whether the court has considered lesser sanctions, whether it tried them, and whether it warned the recalcitrant party about the possibility of case-dispositive sanctions." *Connecticut Gen. Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d 1091, 1096 (9th Cir. 2007). The application of these factors is not mechanical; instead, the factors provide the Court "with a way to think about what to do, not a set of conditions precedent for sanctions or a script that the [Court] must follow." *Id.*

"Dismissal is a harsh penalty and is to be imposed only in extreme circumstances." *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). As set forth below, all five factors weigh against dismissal.

*I. Public's Interest in Expeditious Resolution of Litigation*

To dismiss a case for lack of prosecution, "the court must find unreasonable delay." *Eisen*, 41 F.3d at 1451. A reviewing court gives deference to the trial court to decide what is unreasonable because the trial court "is in the best position to determine what period of delay can be endured before its docket becomes unmanageable." *Id.* at 1451. In *Eisen*, a four-year delay was found to be unreasonable. *Id.* In *Tenorio v. Osinga (In re Osinga)*, 91 B.R. 893 (BAP 9th Cir. 1988), a twenty-nine month delay was found to be unreasonable.

The premise of the Motion to Dismiss is that the Trustee was required to take action after the District Court remanded his claims against the BC Trust to this Court. It is not necessary for the Court to determine whether this premise is correct, because even if it was the Trustee's responsibility to take some type of action, there has not been unreasonable delay. Approximately nine months elapsed between the time of the remand and the filing of the Motion to Dismiss. This time period must be considered within the context of the complexity of this litigation. Even if the Trustee had taken action immediately upon remand, it would have taken time for the Court to review the 1203-page transcript of the jury trial, the four published opinions of the District Court affecting this action [Note 4], and multiple unpublished Memoranda of Decision

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issued by the District Court (including rulings on six motions *in limine*, a ruling denying the Trustee's motion for entry of final judgment pursuant to Civil Rule 54(b), and a ruling granting the Trustee's motion to bifurcate the trial). Contrary to the BC Trust's contention, it would not have been feasible for the Court to conduct a trial or take other action with respect to the remaining claims shortly after remand.

The Court must also emphasize that the protracted nature of this litigation has resulted in part from actions taken by the BC Trust—such as the BC Trust's decision to appeal, along with Kirkland, the denial of the Arbitration Motion to the District Court and then to the Ninth Circuit. It was of course the BC Trust's right to prosecute those appeals. But the BC Trust's complaints of prejudice from a nine-month delay ring somewhat hollow when considering that its appeals of the Arbitration Motion delayed this proceeding by approximately 2.5 years.

Some observations regarding the likely future course of this litigation are also in order. As the District Court observed after the jury trial had been completed:

Well, and there's going to be more [appeals in this proceeding] because whatever I do is going to go straight to the Ninth and whatever the bankruptcy judge does is going to come down here.

And certainly as it relates to this, it should be low-numbered to me and then I'm either going to affirm it or reverse it and then whatever I do it's going to go back up to the Ninth.

Adv. Doc. No. 399-4 at 458.

Against this backdrop, the BC Trust's complaints regarding the length of time this action has been pending and its appeal to the Court to "finally bring this matter to an end," Doc. No. 402 at 5, lack persuasive force.

This factor weighs against dismissal.

## 2. *The Court's Need to Manage its Docket*

"This factor is usually reviewed in conjunction with the public's interest in expeditious resolution of litigation to determine if there is unreasonable delay." *Eisen*, 31 F.3d at 1452. Findings regarding this factor are also entitled to deference upon review because trial-level "judges are best situated to decide when delay in a particular case interferes with docket management and the public interest." *Yourish v. California Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999).

As discussed above, there has not been unreasonable delay. In addition, the continued litigation of this matter will not interfere with the Court's ability to manage

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its docket. This factor weighs against dismissal.

*3. The Risk of Prejudice to the Defendants*

“[T]he failure to prosecute diligently is sufficient by itself to justify a dismissal, even in the absence of a showing of actual prejudice to the defendant from the failure.... The law presumes injury from unreasonable delay.” *Eisen*, 31 F.3d at 1452. If the Plaintiff offers “an excuse for his delay that is anything but frivolous, the burden of production shifts to the defendant to show at least some actual prejudice.” *Id.* at 1453. “Prejudice itself usually takes two forms—loss of evidence and loss of memory by a witness.” *Nealey v. Transportacion Maritima Mexicana, S. A.*, 662 F.2d 1275, 1281 (9th Cir. 1980).

As set forth in the discussion of Factor 1, the Trustee has not engaged in unreasonable delay and therefore has not failed to prosecute this matter diligently. Accordingly, this factor does not apply.

Even assuming *arguendo* that this factor did apply, the BC Trust has failed to demonstrate that it has been prejudiced. The BC Trust contends that it is prejudiced by the alleged loss of memory of Lisa Underkoffler. This argument ignores the fact that at the time Underkoffler was deposed in 2017, it had already been approximately seven years since the events to which her testimony pertained had occurred. The BC Trust has failed to show that an additional nine months of delay will further impair Underkoffler’s memory to any meaningful extent.

This factor weighs against dismissal.

*4. The Public Policy Favoring the Disposition of Cases on Their Merits*

“[C]ourts weigh this factor against the plaintiff’s delay and the prejudice suffered by the defendant.” *Eisen*, 31 F.3d at 1454. Normally, “the public policy favoring disposition of cases on their merits strongly counsels against dismissal.” *In re PPA Prods.*, 460 F.3d at 1228.

This factor weighs against dismissal.

*5. The Availability of Less Drastic Sanctions*

Once again, because the Trustee has not engaged in unreasonable delay, this factor does not apply. Even assuming *arguendo* that the factor did apply, the Court would not be in a position to dismiss the case. The Court has not warned the Trustee that the case was in danger of dismissal for failure to prosecute. To the contrary, during the eight years in which this litigation has been pending, it is not been necessary for the Court to issue warnings to the Trustee with respect to the possible

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imposition of any type of sanction.

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**B. The Removal Motion is Denied**

Section 324(a) provides that the Court "may remove a trustee ... for cause." Cause for removal includes "trustee incompetence, violation of the trustee's fiduciary duties, misconduct or failure to perform the trustee's duties, or lack of disinterestedness or holding an interest adverse to the estate." *Dye v. Brown (In re AFI Holding, Inc.)*, 530 F.3d 832, 845 (9th Cir. 2008). An "adverse interest" is "the (1) possession or assertion of an economic interest that would tend to lessen the value of the bankruptcy estate; or (2) possession or assertion of an economic interest that would create either an actual or potential dispute in which the estate is a rival claimant; or (3) possession of a predisposition under circumstances that create a bias against the estate." *Id.*

In *AFI Holding*, the court found that the Trustee was not disinterested because she had social and professional connections with individuals who were insiders of the debtor and who held adverse interests to the debtor. *Id.* at 849. The court concluded that these associations could have conceivably influenced the Trustee's decision not to pursue litigation against the insiders, which in turn created suspicion and discord between the trustee and the estate's creditors which was detrimental to the administration of the estate. *Id.* at 850.

The BC Trust argues that the Trustee holds an adverse interest to the estate because the Trustee's professionals will be required to disgorge professional fees if the Trustee does not succeed in disallowing the BC Trust's proof of claim. Were the Court to adopt this argument, it would severely circumscribe the ability of Chapter 7 Trustees to prosecute litigation with the potential to enhance the recovery to unsecured creditors. It is frequently the case that if a Trustee does not prevail in litigation undertaken for the estate's benefit—whether that be litigation to disallow a security interest, as is the case here, or litigation to augment the estate, such as an avoidance or preference action—it may be necessary for the Trustee's professionals to either disgorge fees that have already been awarded, or to forfeit unawarded fees to which they would have otherwise been entitled had the litigation proved successful.

The facts of this case bear no resemblance to the situation in *AFI Holding*, in which the court found that the Trustee had an interest adverse to the estate. In *AFI Holding*, creditors became suspicious of the Trustee's impartiality after she declined to pursue litigation against individuals with whom she had social and professional connections. Here, the BC Trust's complaint is essentially that the Trustee has exercised poor judgment by expending too many of the estate's resources in attempting to disallow or equitably subordinate the BC Trust's security interest. In

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contrast to *AFI Holding*, the BC Trust has not alleged that the Trustee has any prior connection with the debtor or other interested parties that would cast doubt on the Trustee's ability to impartially administer the estate. Instead, the BC Trust's argument is that the Trustee should have simply allowed the BC Trust's proof of claim, or negotiated a slight discount to the amount claimed. The BC Trust is understandably resistant to the Trustee's attempts to disallow its proof of claim. However, the Trustee's litigation against the BC Trust does not demonstrate that he has an adverse interest to the estate.

The BC Trust also asserts that the Trustee's decision to aggressively litigate to disallow its proof of claim was so reckless and negligent that the Trustee should be removed for cause. There are two problems with this argument. First, the BC Trust assumes that the verdict in favor of Kirkland is fatal to the Trustee's claims against the BC Trust. But the effect of the jury's verdict upon the claims against the BC Trust has not yet been determined.

Second, even assuming *arguendo* that the BC Trust ultimately prevails with respect to the allowability of its proof of claim, that does not mean that the Trustee's decision to pursue the litigation was reckless or negligent. No Trustee can predict the outcome of the litigation in advance. Using hindsight to assess the reasonableness of a Trustee's actions in administering the estate holds the Trustee to an impossible standard. The Trustee had an objectively reasonable basis for pursuing his claims against the BC Trust. That is demonstrated by certain findings by the jury that were favorable to the Trustee, such as the determination that EPD was a Ponzi scheme. If the BC Trust defeats the Trustee's claims by prevailing upon its good-faith defenses, that does not mean that the Trustee's decision to commence the litigation was not a sound exercise of his business judgment.

**C. The RAH Fee Application is Granted in Part and Denied in Part**

In the Fee Memorandum, the Court found that any security interest held by the BC Trust could, at most, attach to only \$104,558.83 of the funds held by the estate. Based upon that finding, the Court concluded that there were sufficient unencumbered funds in the estate to pay professional fees. The BC Trust timely appealed the Fee Memorandum, but subsequently dismissed that interlocutory appeal pursuant to a stipulation preserving the BC Trust's right to seek review of any final order on the allowance and payment of the fees of the estate's professionals. Bankr. Doc. Nos. 1238 and 1254.

The Trustee has previously argued to the District Court that the findings in the Fee Memorandum regarding the scope of the BC Trust's security interest are the law

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of the case and do not remain to be litigated. The BC Trust has opposed these arguments. In connection with the RAH Fee Application, RAH asserts that the Fee Memorandum's findings remain valid, whereas the BC Trust contends that the jury's verdict in favor of Kirkland has undermined the validity of those findings.

The RAH Fee Application requires the Court to determine whether the estate has sufficient unencumbered cash on hand to pay the fees requested by RAH. As a result, the Court must determine whether the Fee Memorandum's findings regarding the scope of the BC Trust's security interest remain valid. This issue has been fully briefed.

"Under the 'law of the case' doctrine, a court is ordinarily precluded from reexamining an issue previously decided by the same court, or a higher court, in the same case." *Old Person v. Brown*, 312 F.3d 1036, 1039 (9th Cir. 2002).

"The law of the case is a discretionary doctrine, which is founded upon the sound public policy that litigation must come to an end" and "also serves to maintain consistency." *Jeffries v. Wood*, 114 F.3d 1484, 1489 (9th Cir.1997) (en banc) (citations and quotation marks omitted) (rev'd on other grounds). The doctrine does not apply if one or more of the following circumstances applies:

- (1) the first decision was clearly erroneous;
- (2) an intervening change in the law has occurred;
- (3) the evidence on remand is substantially different;
- (4) other changed circumstances exist;
- (5) a manifest injustice would otherwise result.

*Thomas v. Bible*, 983 F.2d 152, 155 (9th Cir. 1993).

Here, changed circumstances, substantial differences in evidence, and the fact that a manifest injustice would otherwise result make application of the law of the case doctrine inappropriate with respect to the Fee Memorandum's findings regarding the scope of the BC Trust's security interest. After the reference was withdrawn, the District Court granted the Trustee's motion to bifurcate the trial of the claims against Kirkland and the claims against the BC Trust. District Court Doc. No. 75 (the "Bifurcation Motion"). The District Court stated:

[T]he Court's discretion in ruling on a motion for bifurcation must be exercised so as to "always preserv[e] inviolate the right of trial by jury as declared by the Seventh Amendment to the constitution or as given by a statute of the United States." *Danjaq LLC v. Sony Corp.*, 263 F.3d 942, 961-62

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(9th Cir. 2001). "[W]here there are issues common to both the equitable and legal claims, the legal claims involved in the action must be determined prior to any final court determination of [the] equitable claims." *Id.* at 962 (alteration in original) (internal quotation marks omitted) (quoting *Dollar Sys., Inc. v. Avcar Leasing Sys., Inc.*, 890 F.2d 165, 170 (9th Cir. 1989)).

District Court Doc. No. 117 at 3–4.

In support of the Bifurcation Motion, the Trustee argued that "the law of the case doctrine bars the BC Trust from relitigating the issues as to what estate funds the BC Trust's purported secured claims could possibly attach." District Court Doc. No. 75 at 15 and 18–19. In ruling upon the Bifurcation Motion, the District Court went out of its way to reject the Trustee's argument. The District Court stated that "relying on such rulings [regarding the scope of the BC Trust's security interest] as to the fraudulent transfer claims against John Kirkland could infringe on Kirkland's Seventh Amendment right to have his claims decided by a jury." District Court Doc. No. 117 at 2 n.3.

Application of the law of the case doctrine to the Fee Memorandum's finding regarding the scope of the BC Trust's security interest would contravene the District Court's rulings. The District Court made clear that to preserve Kirkland's Seventh Amendment rights, it was critical that a trial of the claims against Kirkland take place prior to a trial of the claims against the BC Trust. Barring relitigation of the Fee Memorandum's findings, made prior to Kirkland's jury trial, would make a nullity of the District Court's rulings. Application of the law of the case doctrine would work a manifest injustice, and would be inappropriate in view of the changed circumstances resulting from the District Court's rulings.

In addition, substantial additional evidence has been introduced through the jury trial. Much of that evidence is not relevant to the scope of the BC Trust's security interest, but some of it is. Relevant evidence includes, without limitation, Kirkland's testimony regarding (1) his execution of the secured promissory note (the "Note") that was later assigned to the BC Trust, Tr. at 361:20–368:5; (2) his decision to lend money to EPD in September 2007, *id.* at 371:10–372:6; (3) his payments to EPD of approximately \$2,055,000, *id.* at 373:20–377:9; (4) the circumstances surrounding the formation of the BC Trust, *id.* at 397:6–398:24; (5) his decision to assign his interest in the Note to the BC Trust, *id.* at 398:25–400:3; and (6) the circumstances surrounding the recordation of the UCC-1 intended to perfect the Note, *id.* at 401:24–404:17. This substantial new evidence, which was not before the Court at the time the Fee Memorandum was issued, is an additional reason why application of the



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law of the case doctrine is unwarranted. *See Old Pers. v. Brown*, 312 F.3d 1036, 1039 (9th Cir. 2002) (holding that the law of the case doctrine does not apply where "substantially different evidence was adduced at a subsequent trial").

Finally, an interim fee award in a bankruptcy case—such as the Fee Memorandum—is peculiarly ill-suited to being insulated from reconsideration under the law of the case doctrine.

The Interim Fee Order, which incorporated the findings set forth in the Fee Memorandum, was not final. "Because interim awards are interlocutory and often require future adjustments, they are *always* subject to the court's reexamination and adjustment during the course of the case." *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 858 (9th Cir. 2004) (internal citation and quotation marks omitted). All interim awards are "tentative" and therefore "reviewable" and "revisable." *Id.* Given the "inherent nature of [the] tentative financial relief" provided in an interim fee award, it is not even necessary for the Court to find any misconduct on the part of the fee applicant to justify modification of the award. *Id.*

The Court's findings in the Fee Memorandum regarding the scope of the BC Trust's security interest were also reiterated in the Memorandum of Decision. The Memorandum of Decision expressly provided that the findings contained therein would not become the order of the Court until after the District Court ruled upon the Report and Recommendation. Adoption of the Memorandum of Decision was contingent upon the District Court's affirmance of the Report and Recommendation because of the substantial overlap between the Memorandum of Decision and Report and Recommendation. Because the District Court rejected the Reporting and Recommendation, the findings set forth in the Memorandum of Decision never became the order of the Court.

The District Court has recognized the lack of finality of the Memorandum of Decision: "The [Memorandum of Decision] itself provides that it would become an order of the court if and only if the district court adopted the [Report and Recommendation], which did not occur." *Rund v. Kirkland (In re EPD Investment Co., LLC)*, 597 B.R. 899, 901 (C.D. Cal. 2018). In addition, as discussed, the posture of this action has substantially changed as a result of the jury's verdict in favor of Kirkland. For these reasons, the findings in the Memorandum of Decision will not become the order of the Court, and do not constitute the law of the case.

Since the Fee Memorandum's findings regarding the scope of the BC Trust's security interest are no longer valid, the extent to which cash on hand in the estate is encumbered by the BC Trust's security interest remains to be adjudicated. The issue then becomes whether the Court can authorize the payment of professional fees from

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estate funds that may or may not be subject to a security interest, prior to determining the validity or extent of that security interest.

Pursuant to § 363(p)(2), the BC Trust, as the "entity asserting an interest in property," has "the burden of proof on the issue of the validity, priority, or extent of such interest." The leading treatise states that "the less extensive nature of the contested matter form of litigation will permit some examination of lien validity but not extensive litigation," and that the "court must balance the needs of a debtor ... with the adequate protection of the non-consenting secured creditor." 3 Collier on Bankruptcy ¶ 363.05 (Richard Levin & Henry J. Sommers eds., 16th ed. 2020).

At the District Court trial, the BC Trust presented substantial evidence and arguments as to the validity of its security interest. The BC Trust has reintroduced that evidence and reasserted its arguments in opposition to the RAH Fee Application. However, the Trustee has also presented substantial arguments and evidence in support of his position that the BC Trust's security interest is subject to disallowance or equitable subordination. Though it is a very close question, the Court finds, for purposes of the RAH Fee Application only, that the BC Trust has not carried its burden with respect to the validity of its security interest. Given that the evidence on both sides is roughly equal, this finding is dictated by the fact that the BC Trust has the burden of proof.

Section 330(a)(1) allows the Court to award "reasonable compensation for actual, necessary services rendered" by a professional. In determining the amount of compensation to award, the Court considers the

nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary

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compensation charged by comparably skilled practitioners in cases other than cases under this title.

§330(a)(3).

"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." *Sheridan & Kotel, P.C. v. Bergen Brunswig Drug Co. (In re Mednet)*, 251 B.R. 103, 108 (B.A.P. 9th Cir. 2000).

The BC Trust does not dispute the reasonableness of the fees and costs sought by RAH. Having reviewed the RAH Fee Application, the Court awards RAH fees in the amount of \$290,337.00 and costs in the amount of \$2,198.13, on an interim basis. With respect to § 330(a)(3)(F), the rates charged by RAH's attorneys are substantially lower than the rates charged by comparably skilled practitioners in this district. Robert A. Hessling, who has 40 years' bankruptcy experience, charges \$395 per hour. Matthew F. Kennedy, who has 21 years' bankruptcy experience, charges \$295 per hour. Hessling and Kennedy previously were employed at Danning, Gill, Diamond & Kollitz, LLP. At that firm, Hessling's hourly rate was \$595 and Kennedy's hourly rate was \$450.

With respect to § 330(a)(3)(A) and (C), the time spent on the services was reasonable and the services were necessary and beneficial at the time they were rendered.

RAH has requested payment of 60% of allowed fees and 100% of allowed costs. The Court will authorize payment of 100% of the allowed costs, but only 33% of the allowed fees. Even if the Trustee succeeds in disallowing or equitably subordinating the BC Trust's proofs of claim, the estate is administratively insolvent. To the extent that the BC Trust's claims are allowed, it is possible that professionals may be required to disgorge some of the fees previously awarded on an interim basis. Against this backdrop, it is not appropriate for the Court to authorize payment of more than 33% of the fees allowed. In sum, RAH is awarded the following fees and costs on an interim basis:

Fees: \$290,337.00, but only \$95,811.21 may be paid at this time  
Costs: \$2,198.13, all of which may be paid at this time

**D. The BC Trust Shall Bring a Motion for Summary Judgment**

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In the Motion to Dismiss, the BC Trust asserts that the jury's explicit and implicit factual determinations with respect to Kirkland are dispositive of the Trustee's claims against the BC Trust. The Motion to Dismiss essentially asserts that no material facts remain in dispute as a result of the jury's findings as to Kirkland. The BC Trust shall file a motion for summary judgment (the "MSJ") by no later than **August 26, 2020**, and shall set the MSJ for hearing on an available subsequent date on the Court's calendar such that the Trustee is provided sufficient notice under the Local Bankruptcy Rules. If the MSJ does not dispose of the action, a Pretrial Conference is set for **December 15, 2020, at 11:00 a.m.**

The Trustee and the BC Trust have submitted briefing to the District Court and to this Court regarding the extent to which the jury's findings as to Kirkland remain binding with respect to the Trustee's claims against the BC Trust. As discussed in greater detail in Section I.B., above, the Trustee and the BC Trust have markedly different positions regarding the legal framework that should determine which jury findings have binding effect. The Trustee asserts that only jury findings that were "critical and necessary" to the verdict remain binding. The BC Trust maintains that all of the jury's explicit and implicit factual determinations remain binding.

It is not appropriate for the Court to determine at this time which jury findings are binding as to the claims against the BC Trust. However, a ruling regarding the legal framework used to determine which findings are binding will simplify adjudication of the MSJ. As noted, the issue of which legal framework applies is a matter of law that has been fully briefed before District Court and this Court.

The Court finds that all explicit and implicit findings made by the jury remain binding with respect to the Trustee's claims against the BC Trust. The Seventh Amendment provides that "no fact tried by a jury, shall be otherwise re-examined in any Court of the United States." The Ninth Circuit has held:

The Supreme Court has explained how to comport with the Seventh Amendment when trying legal and equitable claims in the same action. In *Dairy Queen, Inc. v. Wood*, 369 U.S. 469, 82 S.Ct. 894, 8 L.Ed.2d 44 (1962), the Court held that in cases in which legal and equitable claims turn on common issues of fact, "any legal issues for which a trial by jury is timely and properly demanded [must] be submitted to a jury," *id.* at 473, 82 S.Ct. 894 (citing *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 510–11, 79 S.Ct. 948, 3 L.Ed.2d 988 (1959)), and the jury's determination of the legal claims must occur "prior to any final court determination of [the] equitable claims," *id.* at 479, 82 S.Ct. 894. Because the Seventh Amendment's second clause

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"prohibit[s] ... the courts of the United States to re-examine any facts tried by a jury" except as permitted under the narrow "modes known to the common law," *Parsons*, 28 U.S. at 447–48, the court then must abide by the jury's findings of fact in making any subsequent rulings. *See Floyd v. Laws*, 929 F.2d 1390, 1397 (9th Cir. 1991) (holding that "it would be a violation of the seventh amendment right to jury trial for the court to disregard a jury's finding of fact").

It follows that "in a case where legal claims are tried by a jury and equitable claims are tried by a judge, and [those] claims are 'based on the same facts,'" the trial judge must "follow the jury's implicit or explicit factual determinations" "in deciding the equitable claims." *L.A. Police Protective League v. Gates*, 995 F.2d 1469, 1473 (9th Cir. 1993) (quoting *Miller v. Fairchild Indus.*, 885 F.2d 498, 507 (9th Cir. 1989)). The trial court must do so in determining both liability and relief on the equitable claims.... These constraints are "consistent with ... the respect that properly is accorded to a jury verdict in our system of jurisprudence." *Miller*, 885 F.2d at 507.

*Teutscher v. Woodson*, 835 F.3d 936, 944 (9th Cir. 2016).

Rather than being limited to the face of the verdict, the jury's findings include "any factual findings that the [v]erdict's contents necessarily imply." *United States v. J-M Mfg. Co., Inc.*, No. EDCV 06-55-GW(PJWX), 2018 WL 705532, at \*5 (C.D. Cal. Jan. 31, 2018). To determine whether a finding is implicit in a verdict, courts review "the verdict, the instructions, and the trial record to interpret the scope of the jury's factual findings." *Id.* For example, in *Los Angeles Police Protective League v. Gates*, 995 F.2d 1469, 1473–74 (9th Cir. 1993), a jury found that a police officer had been wrongfully terminated for refusing to consent to an unlawful search and awarded damages. The trial court denied the officer's request for reinstatement, finding that the officer would have been terminated for other misconduct even if he had consented to the search. The Ninth Circuit acknowledged that "the jury made no express finding on whether [the officer] would have been fired in any event," but found it appropriate to "determine whether it can be inferred from the jury's verdict that it found that the improper insubordination charge was the cause of [the officer's] dismissal." *Id.* at 1473. After examining the relevant jury instructions, the *Gates* court found that in "light of the causation instruction and the manner in which the case was presented to the jury, it could *not* have awarded the level of damages it awarded without finding that Gibson would not have been discharged except for his refusal to be illegally searched." *Id.* at 1474.

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The Court does not agree with the Trustee's contention that only jury findings that were "critical and necessary" to the verdict remain binding with respect to the claims against the BC Trust. The Trustee's framework does not sufficiently account for the intertwined nature of the Trustee's claims against Kirkland and the BC Trust. Among other things, the Trustee alleges that the BC Trust's claims should be equitably subordinated because the BC Trust stands in the shoes of Kirkland as his assignee, and therefore Kirkland's alleged inequitable conduct should be imputed to the BC Trust. Because the Trustee's claims against the BC Trust expressly depend upon his allegations against Kirkland, the Trustee cannot pick and choose which findings made by the jury as to Kirkland remain binding with respect to his claims against the BC Trust. The Trustee's theory of the case means that the all explicit and implicit findings of the jury as to Kirkland are binding with respect to the Trustee's claims against the BC Trust. To hold otherwise would violate *Teutscher's* directive that "in a case where legal claims are tried by a jury and equitable claims are tried by a judge, and [those] claims are 'based on the same facts,'" the trial judge must 'follow the jury's implicit or explicit factual determinations' 'in deciding the equitable claims.'" *Teutscher*, 835 F.3d at 944.

### III. Conclusion

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The Motion to Dismiss is **DENIED**.
- 2) The Removal Motion is **DENIED**.
- 3) The RAH Fee Application is **GRANTED IN PART AND DENIED IN PART**. Specifically, RAH is allowed fees in the amount of \$290,337.00, but only \$95,811.21 may be paid at this time. RAH is allowed costs in the amount of \$2,198.13, all of which may be paid at this time.
- 4) The BC Trust shall file a motion for summary judgment (the "MSJ") by no later than **August 26, 2020**, and shall set the MSJ for hearing on an available subsequent date on the Court's calendar such that the Trustee is provided sufficient notice under the Local Bankruptcy Rules. If the MSJ does not dispose of the action, a Pretrial Conference is set for **December 15, 2020, at 11:00 a.m.**

Within seven days of the hearing, RAH shall submit an order on the RAH Fee Application. The Court will prepare and enter orders on the Motion to Dismiss and Removal Motion, and will prepare and enter a scheduling order.

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The Court approved BRG's employment on June 21, 2012. Bankr. Doc. No. 235. After the BRG employees providing services to the estate moved to DSI, the Court approved DSI's employment on May 22, 2018. Bankr. Doc. No. 1269.

**Note 2**

Unless otherwise indicated, all "Adv. Doc." citations are to Adv. No. 2:12-ap-02424-ER; all "Bankr. Doc." citations are to Bankr. Case No. 2:10-bk-62208-ER; and all "District Court Doc." citations are to Case No. 2:18-cv-08317-DSF. Page citations are to the docket pagination which appears at the top of each page, not to the document's internal pagination.

**Note 3**

Because interim fees had already been paid to professionals, the amounts listed exceeded the estate's cash on hand.

**Note 4**

*See Rund v. Kirkland (In re EPD Investment Co., LLC)*, 587 B.R. 711 (C.D. Cal. 2018), *Rund v. Kirkland (In re EPD Investment Co., LLC)*, 594 B.R. 423 (C.D. Cal. 2018), *Rund v. Kirkland (In re EPD Investment Co., LLC)*, 595 B.R. 910 (C.D. Cal. 2018), and *Rund v. Kirkland (In re EPD Investment Co., LLC)*, 597 B.R. 899 (C.D. Cal. 2018).

**Party Information**

**Debtor(s):**

EPD Investment Co., LLC

Pro Se

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**Chapter 7**

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Corey R Weber  
Robert A Hessling  
Richard K Diamond  
Daniel H Gill  
Michael W Davis  
Steven T Gubner  
Ronald P Abrams



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**2:10-62208 EPD Investment Co., LLC**

**Chapter 7**

**#101.00** HearingRE: [1315] Motion to Remove Trustee (Hyam, Stephen)

Docket 1315

**Tentative Ruling:**

7/21/2020

See Cal. No. 100, above, incorporated in full by reference.

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

**Debtor(s):**

EPD Investment Co., LLC

Pro Se

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Corey R Weber  
Robert A Hessling  
Richard K Diamond  
Daniel H Gill  
Michael W Davis  
Steven T Gubner  
Ronald P Abrams

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**2:10-62208 EPD Investment Co., LLC**

**Chapter 7**

Adv#: 2:12-02424 Rund, Chapter 7 Trustee v. Kirkland, individually et al

**#102.00** HearingRE: [399] Motion to Dismiss Adversary Proceeding (Hyam, Stephen)

Docket 399

**Tentative Ruling:**

7/21/2020

See Cal. No. 100, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

EPD Investment Co., LLC

Pro Se

**Defendant(s):**

John C Kirkland, individually

Represented By  
Autumn D Spaeth ESQ  
Lewis R Landau

Poshow Ann Kirkland, individually

Represented By  
Lewis R Landau

Poshow Ann Kirkland, as Trustee of

Represented By  
Lewis R Landau  
Stephen E Hyam

**Plaintiff(s):**

Jason M Rund, Chapter 7 Trustee

Represented By  
Larry W Gabriel  
Michael W Davis  
Corey R Weber

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Corey R Weber

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**Chapter 7**

Robert A Hessling  
Richard K Diamond  
Daniel H Gill  
Michael W Davis  
Steven T Gubner  
Ronald P Abrams

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2:19-24805 LCI Group Limited LLC

Chapter 11

#103.00 HearingRE: [49] Application for Compensation for Michael Jay Berger, Debtor's Attorney, Period: 12/20/2019 to 6/23/2020, Fee: \$26,069.00, Expenses: \$583.02.

Docket 49

**Tentative Ruling:**

7/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

**Fees:** \$26,069 approved [*see* Doc. No. 49]

**Expenses:** \$583.02 approved [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

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**CONT... LCI Group Limited LLC**

**Chapter 11**

**Debtor(s):**

LCI Group Limited LLC

Represented By  
Michael Jay Berger

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**2:20-15847 Vickie Burris**

**Chapter 7**

**#104.00** HearingRE: [9] 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 Residence at 20842 Elaine Avenue, Lakewood, CA 90715 with Declarations of VICKIE BURRIS and MICHAEL E. PLOTKIN with Proof of Service.

Docket 9

**Tentative Ruling:**

7/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate [Doc. No. 10] (the "Motion")
  - a. Application Shortening Time for Hearing on Motion [Doc. No. 11]
  - b. Notice of Hearing on Motion [Doc. No. 21]
2. Certificate of Service re Motion [Doc. No. 16]
3. Order Setting Hearing on Motion to Continue Automatic Stay on Shortened Notice [Doc. No. 14]
4. Declaration re: Proof of Service of Order Setting Hearing on Motion to Continue Automatic Stay on Shortened Notice [Doc. No. 23]
5. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

On April 27, 2020, Vickie Burris (the "Debtor") filed a voluntary petition under chapter 7 [Case No. 2:20-bk-13961-ER] (the "Prior Case"). The Prior Case was dismissed on June 15, 2020 based on the Debtor's failure to timely submit mandatory

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case commencement documents.

On June 29, 2020, the Debtor filed this voluntary chapter 7 case. On Schedule D, the Debtor identifies secured creditors Kia Motors Finance Co. ("Kia Motors") and Mr. Cooper, which hold security interests in the Debtor's vehicle and residence, respectively. There are no other secured creditors. The Debtor now moves, on shortened basis, to continue the automatic stay as to all creditors [**Note 1**] pursuant to § 362(c)(3)(B) [**Note 2**]. The Debtor asserts that the dismissal of the Prior Case was not her fault, but that of her counsel, and that she filed this case in good faith. The Debtor notes that there is approximately \$50,000 in equity in her residence, which would purportedly cover payments owed to Mr. Cooper for 22 months. Moreover, Kia Motors can file a stay relief motion to recover the Debtor's vehicle.

As of the date of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

As a preliminary matter, the Court notes that the Debtor failed to provide telephonic notice of the instant hearing by the July 2, 2020 deadline, as instructed by the Court. Nevertheless, the Debtor took reasonable steps to deliver notice of the hearing as soon as her counsel became aware of the deadline. Based on counsel's declaration re telephonic notice [Doc. No. 21], all interested parties have been notified of the instant hearing and were provided with a reasonable opportunity to lodge an objection. Therefore, for the purposes of this tentative ruling, the Court will overlook issues regarding the untimeliness of the telephonic notice.

Section 362(c)(3)(A) provides that the automatic stay terminates by its own terms thirty days after a debtor's bankruptcy filing, when the debtor has filed a prior bankruptcy case that was dismissed within one year of the second bankruptcy filing. However, pursuant to § 362(c)(3)(B), the debtor or any other interested party may seek to continue the automatic stay beyond the thirty-day period. The movant must demonstrate that the case was filed "in good faith as to the creditors to be stayed." 11 U.S.C. § 362(c)(3)(B). Under certain circumstances, a presumption of bad faith arises that the movant may rebut only by presenting clear and convincing evidence of the debtor's good faith. *See* 11 U.S.C. § 362(c)(3)(C)(i) – (ii).

Based upon a review of the Motion, the order entered in the Prior Case, and the

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declarations of the Debtor and her counsel, the Court does not find that any of the factors triggering the presumption of bad faith exist. The Court further finds that Debtor has established by a preponderance of the evidence that this case was filed in good faith. The Debtor's states that the dismissal was the result of his failure to file all schedules and statements in a timely manner. Motion, Declaration of Michael E. Plotkin, ¶ 2. Counsel further asserts that continuing the automatic stay would protect the Debtor's residence, where her daughter, son, and grandson currently reside. *Id.* at ¶ 4.

### III. Conclusion

For the reasons set forth above, the Motion is GRANTED.

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor checked the boxes on l.d. and l.e. requesting an order continuing the automatic stay as to both (i) *Secured Creditors/Lessors* and (ii) all creditors.

**Note 2:** The Debtor seeks an order both *imposing* the automatic stay as to all creditors under § 362(c)(4) and requesting the *continuance* of the stay under § 362(c)(3); however, since there has only been one bankruptcy filing within the one-year period prior to the petition date, the automatic stay is in effect for the first thirty-days of this bankruptcy case, through July 29, 2020. Therefore, the Debtor should only have checked the boxes requesting an order *continuing* the automatic stay beyond the thirty-day period pursuant to § 362(c)(3).

**Party Information**



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**CONT... Vickie Burris**

**Chapter 7**

**Debtor(s):**

Vickie Burris

Represented By  
Michael E Plotkin

**Trustee(s):**

John P Pringle (TR)

Pro Se

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**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

Adv#: 2:19-01290 Goodrich v. Liu

**#1.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01290. Complaint by David M. Goodrich against Nancy Liu. (Charge To Estate). Complaint for Declaratory Relief Nature of Suit: (91 (Declaratory judgment)) (Gaschen, Beth)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 12-16-19**

**Tentative Ruling:**

- NONE LISTED -

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

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Defendant(s):**

Nancy Liu

Pro Se

**Plaintiff(s):**

David M. Goodrich

Represented By  
Beth Gaschen

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

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**2:18-11795 Alana Gershfeld**

**Chapter 7**

Adv#: 2:19-01052 Dye v. Khasin et al

**#2.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01052. Complaint by Carolyn A Dye against Maria Khasin, Larry A. Khasin, M & L Living Trust. (Charge To Estate).  
Complaint: (1) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. §§ 544 And 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; And,(3) Automatic Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551  
Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Gonzalez, Rosendo)

FR.1-27-20; 4-27-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Alana Gershfeld

Represented By  
Alla Tenina

**Defendant(s):**

Maria Khasin

Pro Se

Larry A. Khasin

Pro Se

M & L Living Trust

Pro Se

**Plaintiff(s):**

Carolyn A Dye

Represented By  
Rosendo Gonzalez

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**CONT... Alana Gershfeld**

**Chapter 7**

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Rosendo Gonzalez

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**2:18-12437 Wardine Bridges**

**Chapter 7**

Adv#: 2:19-01336 Rund v. Rosborough

**#3.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01336. Complaint by Jason M. Rund against Mary Rosborough. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Chung, Toan)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 3-11-20**

**Tentative Ruling:**

- NONE LISTED -

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

Wardine Bridges	Pro Se
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**Defendant(s):**

Mary Rosborough	Pro Se
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**Plaintiff(s):**

Jason M. Rund	Represented By Toan B Chung
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**Trustee(s):**

Jason M Rund (TR)	Represented By Toan B Chung
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-21250 Thomas Ernesto Merino**

**Chapter 7**

Adv#: 2:18-01460 Foreman v. Merino

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01460. Complaint by Star Rae Foreman against Thomas Ernesto Merino . 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)) (Del Mundo, Wilfredo) Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo). Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo).

FR. 4-27-20

**(IN PERSON APPEARANCES REQUIRED)**

Docket 1

**Tentative Ruling:**

7/23/2020

Trial matter. Hearing required.

**Party Information**

**Debtor(s):**

Thomas Ernesto Merino

Represented By  
Kourosh M Pourmorady

**Defendant(s):**

Thomas Ernesto Merino

Pro Se

**Plaintiff(s):**

Star Rae Foreman

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-12915 John F Gallardo**

**Chapter 7**

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

**#5.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

fr. 2-24-20; 5-25-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 6-4-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

John F Gallardo

Represented By  
Christopher J Langley

**Defendant(s):**

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

**Joint Debtor(s):**

Irene S Gallardo

Represented By  
Christopher J Langley

**Plaintiff(s):**

Carolyn Dye, solely in her capacity

Represented By  
Brandon J Iskander

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Lynda T Bui  
Brandon J Iskander

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**

**John F Gallardo**

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-16649 Christopher Todd Altpeter**

**Chapter 7**

Adv#: 2:19-01296 United States Of America v. Altpeter

**#6.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01296. Complaint by United States Of America against Christopher Todd Altpeter. (Fee Not Required). Nature of Suit: (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)) (Levey, Elan)

Docket 1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT ENTERED 2-21-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Christopher Todd Altpeter

Represented By  
Harriet L. Goldfarb

**Defendant(s):**

Christopher Todd Altpeter

Pro Se

**Plaintiff(s):**

United States Of America

Represented By  
Elan S Levey

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-16657 Ronald K. Perry**

**Chapter 7**

Adv#: 2:19-01335 Huang v. Perry

**#7.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01335. Complaint by Sander Huang against Ronald K. Perry. false pretenses, false representation, actual fraud),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(14 (Recovery of money/property - other)) (Madala, Naveen)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-21-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ronald K. Perry

Represented By  
Steven B Lever

**Defendant(s):**

Ronald K. Perry

Pro Se

**Plaintiff(s):**

Sander Huang

Represented By  
Naveen Madala

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01411 Fernando v. Salamat et al

**#8.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01411. Complaint by Angela Sandra Legaspi Fernando against Marlon Camar Salamat, Daisy Anne Boiser Salamat. 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)),(91 (Declaratory judgment)) (Smyth, Stephen)

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 8-11-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto

**Defendant(s):**

Marlon Camar Salamat

Pro Se

Daisy Anne Boiser Salamat

Pro Se

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto

**Plaintiff(s):**

Angela Sandra Legaspi Fernando

Represented By  
Stephen S Smyth

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01416 Linsangan v. Salamat et al

**#9.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01416. Complaint by Maria Linsangan against Marlon Camar Salamat, Daisy Anne Boiser Salamat. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Rodriguez, Sergio)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-28-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto

**Defendant(s):**

Marlon Salamat

Pro Se

Daisy Salamat

Pro Se

DOES 1-10, Inclusive

Pro Se

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto

**Plaintiff(s):**

Maria Linsangan

Represented By  
Sergio A Rodriguez

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-17235 Ruben Lino Zuniga**

**Chapter 7**

Adv#: 2:19-01415 Nese et al v. Zuniga

**#10.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01415. Complaint by Brian Nese, Darrell Klotzbach, Chan Klotzbach against Ruben Lino Zuniga. false pretenses, false representation, actual fraud)) (Nichani, Vinod)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 5-27-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ruben Lino Zuniga

Represented By  
Raymond J Bulaon

**Defendant(s):**

Ruben L Zuniga

Pro Se

**Plaintiff(s):**

Brian Nese

Represented By  
Vinod Nichani

Darrell Klotzbach

Represented By  
Vinod Nichani

Chan Klotzbach

Represented By  
Vinod Nichani

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#11.00** Trial Date Set

RE: [30] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

Docket 30

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

U.S. Bank National Association

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

CONT...

**Verity Health System of California, Inc.**

**Chapter 11**

Jason D Strabo  
Clark Whitmore  
Jason M Reed  
Megan Preusker  
Nathan F Coco  
Mark Shinderman

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
James Cornell Behrens  
Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01441 United International Mortgage Solutions, Inc. v. KAPLAN & SIMON, LLP,

**#12.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01441. Complaint by United International Mortgage Solutions, Inc. against KAPLAN & SIMON, LLP, A Limited Liability Partnership. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12/31/19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

United International Mortgage

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

**Defendant(s):**

KAPLAN & SIMON, LLP, A

Pro Se

All Persons Or Entities Unknown

Pro Se

DOES 1 to 10 Inclusive

Pro Se

**Plaintiff(s):**

United International Mortgage

Represented By

Matthew D. Resnik



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#13.00** Trial Date Set

RE: [28] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property)), (91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

Docket 28

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Abigail V O'Brient

**Plaintiff(s):**

Official Committee of Unsecured

Represented By

Mark Shinderman

Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14636 Luz Gabriela Gallegos**

**Chapter 7**

**#100.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Toyota C-HR with Proof of Service. (Nagel, Austin)

Docket 8

**Tentative Ruling:**

7/23/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. See Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Luz Gabriela Gallegos**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Luz Gabriela Gallegos

Represented By  
Francis Guilardi

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14978 Tracy Denise Gray**

**Chapter 7**

**#101.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Mercedes-Benz C-Class, VIN: WDDGF4HB8DR257943 . (Ith, Sheryl)

Docket 10

**Tentative Ruling:**

7/23/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Tracy Denise Gray**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Tracy Denise Gray

Represented By  
Randy D Gruen

**Trustee(s):**

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14204 Alma Delia Molina**

**Chapter 7**

**#102.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Honda Cr-V, VIN: 7FAR W1H8 6KE0 35186 .

Docket 10

**Tentative Ruling:**

7/23/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. See Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, July 27, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Alma Delia Molina**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Alma Delia Molina

Represented By  
William J Smyth

**Trustee(s):**

Heide Kurtz (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, July 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-22399 Dorothy Victoria Long**

**Chapter 7**

Adv#: 2:19-01086 United States Trustee for the Central District of v. Long

**#1.00** Trial

RE: [1] Adversary case 2:19-ap-01086. Complaint by United States Trustee (LA) against Dorothy Victoria Long. (Fee Not Required). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference) Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Morrison, Kelly)

fr. 6-11-19; 2-24-2020; 3-23-2020

FR. 6-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-26-2020 AT 9:00 A.M.**

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

Dorothy Victoria Long Pro Se

**Defendant(s):**

Dorothy Victoria Long Pro Se

**Plaintiff(s):**

United States Trustee for the Central Represented By  
Kelly L Morrison

**Trustee(s):**

Brad D Krasnoff (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-13059 Norberto Pimentel**

**Chapter 7**

Adv#: 2:19-01146 Wesley H Avery, Chapter 7 Trustee v. Pimentel et al

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01146. Complaint by WESLEY Howard AVERY against Norberto Pimentel, Erica Pimentel. (Charge To Estate). Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Stevens, Adam)

fr. 3-12-20; 3-24-2020; 6-24-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-27-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Norberto Pimentel

Represented By  
Marcus Gomez

**Defendant(s):**

Norberto Pimentel

Pro Se

Erica Pimentel

Pro Se

**Joint Debtor(s):**

Erica Pimentel

Represented By  
Marcus Gomez

**Plaintiff(s):**

Wesley H Avery, Chapter 7 Trustee

Represented By  
Georgeann H Nicol  
Adam Stevens

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Adam Stevens

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Norberto Pimentel**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#100.00** Hearing RE [4285] Objection regarding transfer of the SFMC **Medicare** Provider Agreement.

fr. 5-13-20

fr. 6-10-20

FR. 7-1-20

fr. 7-15-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-12-20 AT 10:00 AM**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#101.00** Hearing re [4568] Hearing Re Issues Regarding Transfer of Seton **Medicare** Provider Agreement

fr. 5-13-20

fr. 6-10-20

FR. 7-1-20

fr. 7-15-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-12-20 AT 10:00 AM**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#102.00** Hearing re Assumption Objection Re: SETON Asserted by Kaiser Foundation Hospitals [Doc. No. 4682]

FR. 5-20-20

fr. 6-3-20

fr. 7-1-20

FR. 7-15-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#103.00** Hearing re Assumption Objection Re: SETON Asserted by AT&T Corp., AT&T Services, Inc., and Affiliates [Doc. No. 4745]

fr. 6-3-20

fr. 7-1-20

FR. 7-15-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-23-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 29, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#104.00 HearingRE: [5051] Motion to Approve Compromise Under Rule 9019 Between Debtors and Pension Benefit Guaranty Corporation (PBGC) and Limited Response To Motion of PBGC For Allowance and Payment of Administrative Expense Claims; Declaration of Richard G. Adcock In Support Thereof

Docket 5051

**Tentative Ruling:**

7/28/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' (A) Notice of Motion and Motion to Approve Settlement Between Debtors and Pension Benefit Guaranty Corporation (PGBC) and (B) Limited Response to Motion of PBGC for Allowance and Payment of Administrative Expense Claims [Doc. No. 5051] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding [the Motion] [Doc. No. 5160]
- 2) Motion of Pension Benefit Guaranty Corporation for Allowance and Payment of Administrative Expense Claims [Doc. No. 3287]

**I. Facts and Summary of Pleadings**

On August 31, 2018, Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' case are being jointly administered. The Debtors seek approval of a settlement agreement (the "Settlement Agreement") between the Debtors and Pension Benefit Guaranty Corporation (the "PBGC"), resolving administrative and general unsecured claims asserted by the



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 29, 2020

Hearing Room 1568

10:00 AM

CONT... **Verity Health System of California, Inc.**

**Chapter 11**

PBGC. The Motion is filed with the support of the PBGC. No opposition to the Motion is on file.

**A. Summary of the Motion**

The Debtors make the following arguments and representations in support of the Motion:

The Verity Health System Retirement Plan A (“Plan A”) and the Verity Health System Retirement Plan B (“Plan B,” and together with Plan A, the “Verity A/B Plans”) were single-employer defined benefit pension plans covered by Title VI of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1301–1462 (“ERISA”).

PBGC is a wholly-owned United States government corporation and an agency of the United States, that administers the defined benefit pension plan termination insurance program under title VI of ERISA. PBGC guarantees the payment of certain pension benefits upon the termination of pension plans covered by Title VI of ERISA. When an underfunded plan terminates, PBGC generally becomes the trustee of the plan and, subject to certain statutory limitations, pay the plan’s unfunded benefits with its insurance funds.

PBGC can initiate termination of a pension plan pursuant to ERISA § 4042 when certain statutory criteria are satisfied. Upon a PBGC-initiated termination, the contributing sponsor of the terminated pension plan and each member of the sponsors’ controlled group are jointly and severally liable to PBGC for (1) any unpaid minimum funding contributions owed to the pension plan (the “Minimum Contributions”), (2) the pension plan’s unfunded benefit liabilities (the “Unfunded Benefit Liabilities”), and (3) any unpaid statutory premiums (the “Premium Claims”).

On September 25, 2019, PBGC issued to the Plan Administrator a Notice of Determination that the Verity A/B Plans should be terminated and trusteed. PBGC subsequently terminated and trusteed the Verity A/B Plans, with an effective date of termination of April 30, 2019 (the “Termination Date”).

PBGC has filed six amended proofs of claim for liabilities arising in connection with the termination of the Verity A/B Plans (the “PBGC Claims”). PBGC asserts the following amounts and priority status for the PBGC claims:

<b>Plan</b>	<b>Claim Type</b>	<b>PBGC Asserted Amount / Priority</b>
A	Unfunded Benefit Liabilities	\$304,900,000 (general unsecured claim)

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 29, 2020

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10:00 AM

CONT... Verity Health System of California, Inc.

Chapter 11

A	Minimum Contributions	\$32,945,859 (consisting of a § 507(a)(2) claim of \$5,040,334, a § 507(a)(5) claim of \$1,139,242, and a general unsecured claim of \$26,766,283)
A	Premiums	\$28,869,012 (consisting of a § 507(a)(2) or, alternatively, § 507(a)(8) claim of \$2,870,262 and a general unsecured claim of \$25,998,750)
B	Unfunded Benefit Liabilities	\$2,700,000 (general unsecured claim)
B	Premiums	\$3,762,250.66 (consisting of a § 507(a)(2) or, alternatively, § 507(a)(8) claim of \$68,500.66 and a general unsecured claim of \$3,693,750)
<b>TOTAL</b>		\$373,177,122 (consisting of a § 507(a)(2) claim of \$7,979,096.66, which includes \$2,938,762.66 asserted under an alternative theory of § 507(a)(8); a §507(a)(5) claim of \$1,139,242, and a general unsecured claim of \$364,058,783)

The material terms of the Settlement Agreement are as follows:

- 1) PBGC is granted a single, allowed administrative expense claim under § 507(a)(2) in the amount of \$3,000,000, which will be treated in accordance with the terms of the *Amended Chapter 11 Plan of Liquidation of the Debtors, the Prepetition Secured Lenders, and the Committee* [Doc. No. 4879] (the "Plan").
- 2) PBGC is granted a single, allowed general unsecured claim in the amount of \$450,000,000, which will be classified and entitled to *pro rata* treatment with other general unsecured claims in accordance with the terms of the Plan.
- 3) Any and all general unsecured or administrative expense claims that may be held by PBGC against the Debtors are released and discharged.
- 4) PBGC agrees to support any Plan and Confirmation Order filed or sought by the Debtors that does not contradict the material provisions of the Settlement Agreement.

## II. Findings and Conclusions

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, July 29, 2020**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

settlement agreement, the court must consider: (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Settlement Agreement is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

*Probability of Success on the Merits and Complexity of the Litigation*

These factors weigh in favor of approving the Settlement Agreement. It is by no means clear that the estates could obtain a result more favorable than the settlement through litigation. First, litigation would involve several uncertainties, including reconciliation of the Unfunded Benefit Liabilities Claims, the Minimum Contribution Claims, and the Premium Claims. If the Debtors prevailed with respect to one category of claims, they would not necessarily prevail as to another. Second, there is an unresolved split of authority as to certain of the legal positions asserted by the parties.

Uncertainty is increased as a result of the complexity of the litigation. The parties' actuarial, factual, and legal arguments intersect, and the PBGC Claims are complex and fact-intensive. Failure to approve the settlement would also introduce additional complexity and uncertainty into the Debtors' attempts to confirm a Plan, since the PBGC holds a large claim. Avoiding litigation with respect to plan confirmation is in the interests of the estates.

*Paramount Interests of Creditors*

This factor weighs strongly in favor of approving the Settlement Agreement. The Committee does not object to the Settlement Agreement, and no creditors have objected to the Settlement Agreement.

*Difficulties to be Encountered in the Matter of Collection*

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, July 29, 2020

Hearing Room 1568

10:00 AM

CONT... Verity Health System of California, Inc.

Chapter 11

This factor weighs in favor of approving the Settlement Agreement. The complex nature of the parties' claims, rights, and theories makes an appeal likely were the matter to be litigated. This would further delay resolution of the PBGC's claims.

**III. Conclusion**

Based upon the foregoing, the Settlement Agreement is APPROVED and the Motion is GRANTED in its entirety. The Debtors shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#105.00** HearingRE: [5115] Motion to Reject Lease or Executory Contract Under Bankruptcy Code §1113 To Reject and Terminate Remaining Collective Bargaining Agreements (With CNA, NUHW, Local 20 and Local 39 ) Prior To The Scheduled Closing of The Sale of Seton Medical Center and Seton Coastside To AHMC; Declarations of Richard G. Adcock, An N. Ruda, Sam J. Alberts, and Eric Tuckman In Support Thereof

Docket 5115

**Tentative Ruling:**

7/28/2020

**Tentative Ruling:**

Hearing required.

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#106.00** Hearing re [4360] Assumption Objection Re: Seton Asserted by Kaiser Foundation Hospitals and California Transplant Services, Inc.

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-5-20 AT 10::00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1639**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#107.00** Hearing re [5052] Seventh Motion For Entry Of An Order Pursuant To Section 365(d) (4) Of The Bankruptcy Code Extending The Time To Assume Or Reject Unexpired Leases Of Nonresidential Real Property *Nunc Pro Tunc*

Docket 0

**Tentative Ruling:**

7/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED** and the Assumption/Rejection Deadline is extended to and including **September 19, 2020**.

**Pleadings Filed and Reviewed:**

- 1) Debtor's Notice of Motion and Seventh Motion for Entry of an Order Pursuant to § 365(d)(4) of the Bankruptcy Code Extending the Time to Assume or Reject Unexpired Leases [Doc. No. 5052] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5052 and 5056 [Doc. No. 5157]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. On August 31, 2018, the Court entered an order granting the Debtors' motion for joint administration of the Debtors' Chapter 11 cases. Doc. No. 17.

Individual Debtors are parties to multiple real-property, non-residential leases necessary for the operation of the Debtors' business, including office and operational space (the "Leases"). On February 19, 2019, the Court granted the Debtors' initial

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

Wednesday, July 29, 2020

Hearing Room 1639

10:00 AM

CONT... Verity Health System of California, Inc.

Chapter 11

motion for a 90-day extension of the deadline to assume or reject these unexpired leases (such deadline, the "Assumption/Rejection Deadline"). *See* Doc. No. 1157. The Court subsequently authorized further extensions of the Assumption/Rejection Deadline. *See* Doc. Nos. 1955, 2637, 3173, 3851, and 4339. The current Assumption/Rejection Deadline is June 21, 2020.

Debtors now move for an extension of the Assumption/Rejection Deadline from June 21, 2020, to and including September 19, 2020. Debtors state that the extension is necessary because they are still liquidating their remaining assets and have not yet made a final determination regarding the assumption or rejection of specific leases.

## II. Findings and Conclusions

Section 365(d)(4) provides:

(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

- (i) the date that is 120 days after the date of the order for relief; or
- (ii) the date of the entry of an order confirming a plan.

(B)

(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

"[T]he legislative purpose behind §365(d)(4) was to protect lessors from extended periods where the premises remained vacant and no rental payments made." *Willamette Water Front Ltd. v. Victoria Station, Inc. (In re Victoria Station Inc.)*, 88 B.R. 231, 237 (B.A.P. 9th Cir. 1988), *aff'd*, 875 F.2d 1380 (9th Cir. 1989).

In its prior rulings extending the Assumption/Rejection deadline, the Court has deemed a Lessor's non-opposition to constitute "consent" for purposes of § 365(d)(4) (B)(ii). *See, e.g.*, Doc. No. 3851. The Court finds it appropriate to continue to deem the Lessor's non-opposition to constitute consent. Because the Debtors remain current on lease payments, this approach does not prejudice the Lessors. In addition, absent



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Wednesday, July 29, 2020**

**Hearing Room 1639**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

extension of the deadline, the Debtors will lack the flexibility necessary to allow them to assume and assign certain leases to future purchasers of their remaining assets. This would harm the estates by reducing the purchase price realized in connection with the disposition of the Debtors' assets.

The Lessors have received notice of the Motion and have not objected to the relief requested. The Assumption/Rejection Deadline is extended to and including **September 19, 2020**.

The Debtors shall submit an order incorporating this tentative ruling by reference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24644 Aaron Henry Trimble and Ashley Ann Trimble**

**Chapter 7**

**#1.00** HearingRE: [30] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 9002 BANISTER LOOP, Jacksonville, North Carolina, 28546 UNDER 11 U.S.C. § 362. (Exnowski, Dane)

Docket 30

**Tentative Ruling:**

7/30/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtors, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtors or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Since a chapter 7 case does not contemplate reorganization, the sole issue before the Court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the Debtors have equity in the property. See, e.g., Martens v. Countrywide Home Loans (In re Martens), 331 B.R. 395, 398 (B.A.P. 8th Cir. 2005); Ramco Indus. v. Preuss (In re Preuss), 15 B.R. 896, 897 (B.A.P. 9th Cir. 1981).

The subject property has a value of \$109,632.43 and is encumbered by a perfected

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 3, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Aaron Henry Trimble and Ashley Ann Trimble Chapter 7**

deed of trust or mortgage in favor of the Movant. The liens against the property and the expected costs of sale total approximately \$131,537.33. The Court finds there is no equity and there is no evidence that the trustee can administer the subject real property for the benefit of creditors. In addition, the Court notes that the Debtors have indicated their intention to surrender the subject property. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Aaron Henry Trimble

Represented By  
Timothy McFarlin

**Joint Debtor(s):**

Ashley Ann Trimble

Represented By  
Timothy McFarlin

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14865 21251 TERRY LLC**

**Chapter 7**

**#2.00** HearingRE: [6] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 21251 East Terry Way, Covina, CA 91724 . (Valenzuela, Amelia)

Docket 6

**Tentative Ruling:**

7/30/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

On May 28, 2020, 21251 Terry, LLC (the "Debtor") filed a voluntary chapter 7 petition. On or about November 28, 2020, the Debtor's principal, on behalf of the Debtor, and Civic Financial Services, LLC (the "Original Lender") executed a promissory note, pursuant to which Debtor agreed to pay the Original Lender the principal amount of \$1,120,000 (the "Promissory Note"). *See* Declaration of Lindsey Dallmer [Doc. No. 6] ("Dallmer Decl."), ¶ 21. The Promissory Note was secured by a first-position deed of trust in favor of the Original Lender, encumbering residential real property located at 21251 East Terry Way, Covina, CA 91724 (the "Property"). On or about January 30, 2019, the Original Lender fully transferred its interest in the Property to Civic Holdings III Trust (the "Movant"). Dallmer Decl., ¶ 21; Ex. C. The Movant asserts that the Debtor defaulted on the Promissory Note on or about January 7, 2020, for which deficiencies have not been cured as of the filing of the Motion. *See*

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT... 21251 TERRY LLC**

**Chapter 7**

Dallmer Decl., ¶¶ 26-7. A foreclosure sale of the Property had been originally set for May 11, 2020, approximately one week before the petition date.

The Court finds that there is good cause to grant relief under 11 U.S.C. §§ 362(d)(1) and (d)(2). The Property has a value of \$1,200,000 (Motion, Ex. D) and is encumbered by a perfected deed of trust in favor of the Movant in the sum of \$1,289,155.45 (Dallmer Decl., ¶ 31). Accordingly, the value of the equity cushion in the Property exceeding Movant's debt, and in consideration of expected sale costs, is (\$173,155.45), which is -14.4% of the Property's fair market value. Therefore, the Movant's interest in the Property is not adequately protected and stay-relief under § 362(d)(1) is appropriate. *Pistole v. Mellor (In re Mellor)*, 734 F.2d 1396, 1401 (9th Cir. 1984); see *Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.)*, 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). Further, the Property is encumbered by at least two additional liens disclosed in Debtor's schedules. See Motion, Ex. E. The liens against the Property, unpaid taxes, and the expected costs of sale total north of \$2,113,000. Based on the foregoing, the Court further finds that the Property is hopelessly underwater, is not necessary for the Debtor's reorganization, and there is no evidence that the trustee can administer the Property for the benefit of creditors. Hence, stay-relief is also warranted pursuant to § 362(d)(2).

Additionally, the Movant asserts that the instant petition was filed in bad faith given the limited information supplied by the Debtor in its commencement documents, and because the Debtor commenced this case approximately a week before the scheduled foreclosure of the Property. The Court further notes that this case was dismissed on July 24, 2020, due to the Debtor's absence at the Section 341(a) Meeting of Creditors. Based on the present, uncontroverted record, the Court finds that this petition was filed in bad faith to delay and impair Movant's attempts to foreclose upon the Property. Therefore, the Motion is also granted under § 362(d)(1) for cause based on Debtor's bad faith filing.

The Motion is GRANTED pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property, or to enter into a potential forbearance or loan modification agreement in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The 14-day

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period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, the order shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the Court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept a certified copy of this order for indexing and recording. All other relief is denied.

The Court vacates the dismissal for the limited purpose of entering an order on this Motion.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

21251 TERRY LLC

Represented By  
Julie A Duncan

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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**2:20-14870 Melissa L Loe**

**Chapter 7**

**#3.00 Hearing**

RE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: VISA Platinum Credit Card . (Kaufmann, Kelly)

fr: 7-6-20

Docket 11

**Tentative Ruling:**

7/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Personal Property) [Doc. No. 11] (the "Motion")
2. Supplemental Declaration to Motion for Relief from the Automatic Stay [Doc. No. 17] (the "Supplement")
3. As of the preparation of this tentative ruling, Debtor has not filed an opposition

**I. Facts and Summary of Pleadings**

Debtor Melissa L. Loe (the "Debtor") filed this voluntary chapter 7 case on May 28, 2020 (the "Petition Date"). On June 10, 2020, Washington State Employees Credit Union (the "Movant") filed a "Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Personal Property)" [Doc. No. 11] (the "Motion") seeking relief from the automatic stay pursuant to § 362(d)(1) and (d)(2) with respect to funds totaling \$250 (the "Pledged Funds"). The Movant asserts that the Pledged Funds were provided by the Debtor as security in connection with a credit application with the Movant. The Movant intends to apply the Pledged Funds against the Debtor's

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**CONT... Melissa L Loe**

**Chapter 7**

outstanding credit card balance of \$246.79. In support of the Motion, the Movant attached a document captioned "Visa Master Loan Application" as Exhibit 1 (the "Application"), which is signed by the Debtor.

On July 6, 2020, the Court continued the instant hearing to permit Movant to file supplemental evidence in support of the Motion. On July 27, 2020, the Movant submitted the *Supplemental Declaration to Motion for Relief from the Automatic Stay* [Doc. No. 17] (the "Supplement"). Attached to the Supplement is the *Consumer Account Agreement* (Ex. 2) (the "Account Agreement"), which the Movant asserts is referenced in page 4 of the Application. Based on the Account Agreement, the Movant claims to possess a perfected security interest in the Pledged Funds to the extent of the Debtor's outstanding credit card balance:

"Credit Union Lien and Security Interest. To the extent you owe the Credit Union money as a borrower, guarantor, endorser or otherwise, the Credit Union has a lien on any or all of the fund in any account in which you have an ownership interest at the Credit Union. The Credit Union may apply these funds in any order to pay off your indebtedness ... In addition, you grant the Credit Union a consensual security interest in you accounts and agree the Credit Union may use the funds from your accounts to pay any debt or amount owed the Credit Union. except obligations secured by your dwelling, unless prohibited by applicable law ... "

*See* Supplement, Ex. 2, ¶ 20, pp. 4-5.

As of the date of the preparation of this tentative ruling, the Debtor has not filed an opposition.

## **II. Findings of Fact and Conclusions of Law**

Under 11 U.S.C. § 362(d)(1), the Court shall grant relief if the movant's interest in the property is not protected by an adequate equity cushion.

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to obtain possession of the Pledged Funds, to the extent of the Debtor's outstanding debt, in accordance with



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**CONT... Melissa L Loe**

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applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Movant has established a *prima facie* case that cause exists, and Debtor has not responded with evidence establishing that Movant is adequately protected, or otherwise objecting to the stay-relief requested.

The Court finds that the Movant has a valid security interest in the Pledged Funds, to the extent of Debtor's debt to the Movant. Based on the Motion and supporting evidence, the Debtor currently owes \$246.79 to the Movant. Motion at 8. Considering Movant's security interest in the Pledged Funds, there is some, but very little equity and there is no evidence that the funds are necessary to a reorganization or that the trustee can administer that asset for the benefit of creditors. Movant is protected by less than a 1% equity cushion in the funds. The Ninth Circuit has established that an equity cushion of 20% constitutes adequate protection for a secured creditor. Pistole v. Mellor (In re Mellor), 734 F.2d 1396, 1401 (9th Cir. 1984); *see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.)*, 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). Because the equity cushion in this case is less than 20%, the Court concludes this is cause to terminate the stay under 11 U.S.C. § 362(d) (1).

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

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10:00 AM

**CONT... Melissa L Loe**

**Chapter 7**

**Debtor(s):**

Melissa L Loe

Pro Se

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Monday, August 3, 2020**

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10:00 AM

**2:20-15619 Hillcrest Holiday Holdings LLC, California Limited**

**Chapter 7**

**#4.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4924 Hillcrest Dr., Los Angeles, CA 90043 . (Lee, Nancy)

Docket 8

**Tentative Ruling:**

7/30/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Alleged Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). "

The Court finds that there is good cause to grant relief pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(4) based on the following facts. George Vincent, Thomas McKillen, and Stephanie Younger (jointly, the "Petitioners") filed an involuntary chapter 7 petition against Hillcrest Holiday Holdings, LLC (the "Alleged Debtor") on June 23, 2020. On or about January 23, 2019, the Alleged Debtor and Ruby Reds Home Loans, a California corporation, (the "Original Lender") entered into a security agreement, encumbering real property located at 4924 Hillcrest Dr., Los Angeles, CA 90043 (the "Property"). *See* Motion, Ex. 1. On or about February 1, 2019, Devoir Oblige Capital Group, LLC (the "Movant") became the senior lienholder on the Property. *See id.*, Ex. 2 (the security agreements affixed to the Motion indicate a chain of title from the Movant to the Original Lender). The Movant asserts that the Debtor

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**CONT... Hillcrest Holiday Holdings LLC, California Limited**

**Chapter 7**

defaulted on the underlying promissory note on or about October 2, 2019, for which deficiencies have not been cured as of the filing of the Motion. *See* Motion at 7-8. A foreclosure sale of the Property had been originally set for February 6, 2020 and then rescheduled for July 16, 2020.

The Movant requests stay-relief under § 363(d)(4) based on a series of unauthorized security agreements between the Alleged Debtor and multiple third parties, all of whom later filed for bankruptcy relief on an individual basis. On or about February 5, 2020, the Alleged Debtor purportedly executed a deed of trust on the Property in favor of Betty Castillo ("Castillo"), Santos Cortes ("Cortes"), and Crystal Pham ("Pham") for the sum of \$40,000. *See* Motion, Ex. 4. Cortes, Castillo, and Pham each commenced voluntary chapter 13 cases, which were all subsequently dismissed given each petitioner's failure to comply with basic commencement requirements. *See id.*, Ex. 7. On or about March 4, 2020, the Alleged Debtor purportedly executed a deed of trust in favor of Carlos Alexander Ruiz ("Ruiz"), Robert A. Amescua, and Young Shin Kim on the Property for \$20,000. *See id.*, Ex. 5. Each of these transferees later filed for bankruptcy and each case was summarily dismissed for similar reasons as prior transferees. *See id.*, Ex. 7. Finally, the Alleged Debtor purportedly transferred a 10% interest in the Property to Gabriel Murillo ("Murillo") via an unauthorized grant deed. *See* Motion, Ex. 6. Murillo too commenced a chapter 13 case on June 18, 2020, which remains pending to this day. All the above-referenced bankruptcy proceedings implicated an interest in the Property. Moreover, with respect to the Ruiz and Castillo cases, the court granted stay relief to the Movant as to the Property based on a finding that the bankruptcies had been part of a scheme to delay, hinder, and defraud creditors. *See id.*, Ex. 9.

Based on the present, uncontroverted, record, the Court finds that this petition is part of a scheme to delay, hinder, and defraud creditors, which involved the transfer of all or part ownership of, or other interest in, the Property without the consent of Movant or court approval and multiple bankruptcy cases affecting the Property. Moreover, based upon Movant's declaration and the absence of any opposition to the relief sought herein, the Motion is granted under § 362(d)(4). For the reasons set forth above, the Motion is also granted under § 362(d)(1) for cause.

Hence, the Motion is GRANTED to permit Movant, its successors, transferees and assigns, to enforce its remedies with respect to the Property in accordance with applicable law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is

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**CONT... Hillcrest Holiday Holdings LLC, California Limited Chapter 7**

waived. This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, the order shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the Court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept a certified copy of this order for indexing and recording. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Hillcrest Holiday Holdings LLC, Pro Se

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** Hearing  
RE: [4944] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: Lease Equipment .  
(Goldberg, Marshall)

FR. 7-20-20

Docket 4944

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 7-16-20**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**United States Bankruptcy Court  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** HearingRE: [5069] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: 19CMSC01398 / 20CMCV00146 (wrongful termination) small claims Comptom court house .

Docket 5069

**Tentative Ruling:**

7/30/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **DENIED** as to the Superior Court Action. The Motion is **GRANTED** as to the Small Claims Action, but stay relief shall not take effect until October 1, 2020.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 [Doc. No. 5069] (the "Motion")
- 2) Debtors' Response to Motion for Relief from the Automatic Stay Filed on Behalf of Natalie Nguyen [Doc. No. 5154]
- 3) No reply is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

Natalie Nguyen ("Movant"), proceeding *in pro se*, seeks stay relief, pursuant to § 362(d)(1), for the purpose of litigating (1) an action seeking recovery of unpaid wages in the amount of \$9,999, pending in the small claims court (the "Small Claims

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Action,” and the complaint commencing the Small Claims Action, the “Small Claims Complaint”) and (2) an action seeking recovery of unpaid wages in the amount of \$26,000, pending in the Los Angeles Superior Court (the “Superior Court Action,” and the complaint commencing the Superior Court Action, the “Superior Court Complaint”).

Both actions were filed subsequent to the Petition Date. The Small Claims Complaint was filed on June 11, 2019; the Superior Court Complaint was filed on June 5, 2020. Movant asserts that the stay should be retroactively annulled because she was not aware of the bankruptcy petitions. Movant states that if she does not obtain stay relief prior to November 2020, both actions will be dismissed.

Debtors oppose the Motion. According to Debtors, Movant’s testimony that she was unaware of the bankruptcies when she filed the actions is false. Debtors point to a letter that was served on Movant subsequent to the filing of the Small Claims Action, which advised Movant of the automatic stay. Debtors argue that Movant should not be rewarded with stay relief on the basis of a false declaration. Debtors request that if the Court is inclined to grant the Motion, stay relief not take effect until after October 1, 2020, so that the Debtors can focus upon the sale of their remaining assets and confirmation of the Plan.

## **II. Findings and Conclusions**

Both actions were filed in violation of the automatic stay. “[V]iolations of the automatic stay are void and of no effect.” *Schwartz v. United States (In re Schwartz)* *In re Schwartz*, 954 F.2d 569, 572 (9th Cir. 1992). Unless the Court retroactively annuls the stay, granting stay relief will not enable Movant to prosecute either action, since the complaints commencing each action were filed in violation of the stay, and are therefore void and of no effect.

"[T]he proper standard for determining ‘cause’ to annul the automatic stay retroactively is a ‘balancing of the equities’ test." *Fjeldsted v. Lien (In re Fjeldsted)*, 293 B.R. 12, 24 (B.A.P. 9th Cir. 2003). In weighing the equities, the general trend has been to focus on two factors: "(1) whether the creditor was aware of the bankruptcy petition; and (2) whether the debtor engaged in unreasonable or inequitable conduct, or prejudice would result to the creditor." *Id.*

With respect to the first factor, the record establishes that Movant was aware of the automatic stay at the time she filed the Superior Court Complaint. On June 26, 2019—approximately one year prior to the filing of the Superior Court Complaint—the Debtors sent Movant a letter informing her of the automatic stay. On June 27, 2019, the Debtors filed a *Notice of Stay of Proceedings* in the Small Claims Action.



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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

With respect to the second factor, there is no evidence before the Court that the Debtors have engaged in unreasonable or inequitable conduct. The Court declines to retroactively annul the stay with respect to the Superior Court Complaint. Since Movant cannot prosecute the Superior Court Complaint absent retroactive annulment, there is no cause for granting stay relief as to the Superior Court Complaint.

It is not clear from the record whether Movant was aware of the automatic stay at the time she filed the Small Claims Complaint. Movant testifies that she was not aware of the stay; however, the credibility of that testimony is undercut by Movant's inaccurate testimony regarding her awareness of the stay as of the filing of the Superior Court Complaint. On the other hand, the Debtors did not send Movant a letter advising her of the stay until after the Small Claims Complaint was filed.

Having weighed the equities, the Court finds it appropriate to retroactively annul the stay as to the Small Claims Complaint. The Court finds that Debtors will not be unduly prejudiced by retroactive annulment. Pursuant to § 362(d)(1), the Court lifts the automatic stay for cause to enable Movant to prosecute the Small Claims Complaint to final judgment. The stay shall remain in effect with respect to the enforcement of any judgment against the Debtors or property of the Debtors' estate.

Stay relief shall not take effect until October 1, 2020. In determining whether the stay should be lifted to allow litigation to proceed in a non-bankruptcy forum, the most important consideration is the effect that the non-bankruptcy litigation will have upon the administration of the estate. *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984). "Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit." *Id.*

Granting stay relief at this time would require the Debtors to commit resources to defending against the Small Claims Action, which would distract the Debtors' professionals from completing tasks critical to the administration of the estates, such as selling the remaining hospitals and confirming the Plan.

### **III. Conclusion**

Based upon the foregoing, the Motion is **DENIED** as to the Superior Court Action. The Motion is **GRANTED** as to the Small Claims Action, but stay relief shall not take effect until October 1, 2020.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear,**

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**please first contact opposing counsel to inform them of your intention to do so.**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**Tuesday, August 4, 2020**

**Hearing Room 1568**

10:00 AM

**2:12-13558 Rolando Leon and Maria Cecilia Leon**

**Chapter 7**

**#1.00 APPLICANT: Trustee - Howard Ehrenberg**

Hearing re [42] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

8/3/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$7,100 [*see* Doc. No. 41]

Total Expenses: \$228.55 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

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10:00 AM

**CONT... Rolando Leon and Maria Cecilia Leon**

**Chapter 7**

**Debtor(s):**

Rolando Leon

Represented By  
Hovig J Abassian

**Joint Debtor(s):**

Maria Cecilia Leon

Represented By  
Hovig J Abassian

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

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10:00 AM

**2:12-13558 Rolando Leon and Maria Cecilia Leon**

**Chapter 7**

**#2.00 APPLICANT: Accountant for Trustee ( Other Firm) - Hahn Fife & Company**

Hearing re [42] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

8/3/2020

**Proposed tentative (in Law Clerk Notes):**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$1,672 approved [*See* Doc. No. 39] [**Note 1**]

Expenses: \$282.90 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

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**CONT... Rolando Leon and Maria Cecilia Leon**

**Chapter 7**

**Note 1:** The Court notes that the trustee's final report indicates that the Applicant seeks fees totaling \$1,892, not \$1,672 as actually requested by the Applicant. The Court deems the dollar figure sought by the Applicant to be correct fee amount, which is further supported by Applicant's billing records.

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

**Debtor(s):**

Rolando Leon

Represented By  
Hovig J Abassian

**Joint Debtor(s):**

Maria Cecilia Leon

Represented By  
Hovig J Abassian

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

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**2:20-15619 Hillcrest Holiday Holdings LLC, California Limited**

**Chapter 7**

**#3.00** Status Hearing RE: [1] Chapter 7 Involuntary Petition Against a Non-Individual. Thomas McKillen, Stephanie Younger . (Collins, Kim S.)

Docket 1

**Tentative Ruling:**

8/3/2020

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The involuntary petition is **DISMISSED** for the reasons set forth below.

**Pleadings Filed and Reviewed:**

- 1) Involuntary Petition Against a Non-Individual [Doc. No. 1]
- 2) Summons and Notice of Status Conference in an Involuntary Bankruptcy Case [Doc. No. 3]

The Petitioning Creditors have failed to file a proof of service establishing that the Summons, Notice of Status Conference, and Involuntary Petition were served upon the Alleged Debtor. The Summons issued to the Petitioning Creditors clearly informs the Petitioning Creditors of the obligation to serve the Summons, Notice of Status Conference, and Involuntary Petition upon the Alleged Debtor. The Summons further advises the Petitioning Creditors that failure to properly effectuate service may result in dismissal of the involuntary petition.

Local Bankruptcy Rule 1010-1 provides in relevant part: "The court may dismiss an involuntary petition without further notice and hearing if the petitioner fails to ... (c) serve the summons and petition within the time allowed by FRBP 7004; (d) file a proof of service of the summons and petition with the court; or (e) appear at the status conference set by the court."

Based upon the foregoing, the involuntary petition is **DISMISSED**.

The Court will prepare and enter an appropriate order.

**Party Information**

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**CONT... Hillcrest Holiday Holdings LLC, California Limited**

**Chapter 7**

**Debtor(s):**

Hillcrest Holiday Holdings LLC, Pro Se



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**2:15-21374 Maria Del Carmen Linares**

**Chapter 7**

**#100.00** Hearing  
RE: [83] Application for Compensation Application for Payment of (First) Interim Fees and/or Expenses (11 U.S.C. § 331) for H.Y.P. LAW GROUP, Special Counsel, Period: 3/1/2019 to 6/15/2020, Fee: \$2500.00, Expenses: \$0.00. (Blumenfeld, Ori)

fr. 7-8-20

Docket 83

**Tentative Ruling:**

8/3/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is DENIED as moot and the Fee Applications are GRANTED IN PART as follows:

- (1) The MLF Fee Application is GRANTED in the total amount of \$243,462.63 (less the voluntary expense reduction of \$2,867.41 for the litigation funding interest), on an interim basis, subject to the conditions set forth below.
- (2) The HYP Fee Application is DENIED in full.
- (3) The BBK Fee Application is GRANTED in the total amount of \$29,102.21 (less a fee reduction of \$2,000), on an interim basis.

**Pleadings Filed and Reviewed:**

1. Joint Supplemental Brief in Response to the Court's July 8, 2020 Tentative Ruling on First Interim Applications of Best Best & Krieger LLP and the McElfish Law Firm for Allowance of Fees and Reimbursement of Costs [Doc. No. 98] (the

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“Joint Supplemental Brief”)

**Chapter 7**

2. Supplemental Brief in Support of First Interim Application of H.Y.P. Law Group for Allowance of Fees and/or Expenses (11 U.S.C. § 330) [Doc. No. 97] (the “HYP Supplement”)
3. Declaration of David M. Goodrich in Support of First Interim Application of H.Y.P. Law Group For Allowance of Fees and/or Expenses (11 U.S.C. § 330) [Doc. No. 89]
4. Declaration of David M. Goodrich in Support of First Interim Application of Best Best & Krieger LLP For Allowance of Fees And Reimbursement of Costs [Doc. No. 88]
5. First Interim Application of H.Y.P. Law Group for Allowance of Fees and Reimbursement of Costs [Doc. No. 73]
6. First Interim Application of Best Best & Krieger LLP for Allowance of Fees and Reimbursement of Costs [Doc. No. 70] (“First Interim Application of BBK”)
7. First Interim Application of McElfish Law Group for Allowance of Fees and Reimbursement of Costs [Doc. No. 71]
8. Application for Payment of Interim Fees and/or Expenses (11 U.S.C. § 331) for H.Y.P. Law Group [Doc. No. 83]
9. Chapter 7 Trustee’s Limited Objection to Interim Fee Application of McElfish Law Firm [Doc. No. 87]
10. Application by Chapter 7 Trustee for Authority to Employ McElfish Law Firm Corporation as Special Counsel [Doc. No. 24]
11. Order Approving Chapter 7 Trustee’s Application for Authority to Employ McElfish Law Firm Corporation as Special Counsel [Doc. No. 30]

**I. Facts and Summary of Pleadings**

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**Chapter 7**

**A. Introduction**

On July 20, 2015, Maria del Carmen Linares (the “Debtor”) filed a voluntary chapter 7 petition. David M. Goodrich was appointed as chapter 7 trustee (the “Trustee”). The case was initially closed on November 3, 2015 and reopened on May 31, 2018, on the request of the United States Trustee in order to administer a previously undisclosed asset—a personal injury action initiated by the Debtor against Safeway, Inc. among other parties (the “Personal Injury Action”). *See* Doc. No. 16. The Trustee’s general bankruptcy counsel is Best Best & Krieger LLP (“BBK”). On August 6, 2018 and October 22, 2019, the Trustee obtained orders to employ the McElfish Law Firm (“MLF”) and H.Y.P. Law Group (“HYP”) (collectively with MLF and BBK, the “Applicants”), respectively, as special litigation counsel. *See* Doc. Nos. 30 and 48.

The instant hearing is to consider interim applications for fees and reimbursement of costs filed by the Applicants [Doc. Nos. 70, 71, 83] (the “Fee Applications”), as well as the Trustee’s *Motion to Pay Claims Free and Clear of Purported Medical Liens* [Doc. No. 59] (the “Motion”). The Fee Applications were initially set to be heard on July 8, 2020, but the Court continued the hearings to afford the Applicants an opportunity to address the issues further discussed below.

**B. Summary of Papers Filed in Connection with the Motion**

*Summary of the Motion*

To provide context for the conclusions set forth herein, the Court summarizes the events leading up to the filing of the Motion and the Fee Applications as described in the Trustee’s brief:

After the closing of the case, the Debtor commenced the Personal Injury Action on October 7, 2015, seeking damages for a pre-petition injury sustained by the Debtor at a Vons grocery store on November 4, 2013. MLF, who was working on the action, informed the Trustee of the pending lawsuit and the bankruptcy case was reopened subsequently. The complaint on the Personal Injury Action was amended to formally supplant the Debtor for the Trustee as the real party in interest. On or about August 6, 2018, the Trustee retained Joseph Faccone of MLF to assist him with the Personal Injury Action [Doc. No. 30]. Following an unsuccessful mediation session, and

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continued negotiation discussions, the Trustee and Vons' counsel reached a settlement agreement on or about November 15, 2018 (the "Settlement Agreement"). It was also at this time that the Trustee became aware that the Debtor had retained HYP as counsel, and that, in turn HYP had retained MLF as trial co-counsel.

Between November 15, 2018 and the October 8, 2019, BBK repeatedly communicated with HYP about finalizing the Settlement Agreement, which was conditioned on the Debtor's approval and execution. Throughout that yearlong period, Hamed Yazdanpanah ("Yazdanpanah"), owner of HYP, steadfastly delayed efforts to consummate the Settlement Agreement by, *inter alia*, instructing Vons' counsel to deliver the settlement proceeds to HYP or MLF only, or by asserting that the Debtor would not execute the settlement until she had an opportunity to review BBK's and Trustee's fees. *See* Declaration of Caroline R. Djang ("Djang Decl."), Ex. B (copy of email correspondences between Yazdanpanah and the Trustee).

On or about January 11, 2019, HYP notified the Trustee that the Debtor had accrued approximately \$274,712 in medical liens (the "Medical Liens") in connection with the Debtor's injury at the Vons store, which were to be satisfied from the settlement proceeds. To ensure the prompt disposition of the Medical Liens, the Trustee proposed to employ HYP on a limited basis as special counsel to broker a negotiated payout with the Debtor's healthcare providers in or about February 2019. Through a series of emails exchanged during this time, the Trustee's counsel also clarified basic bankruptcy procedure to Yazdanpanah, a non-bankruptcy practitioner:

To be absolutely clear, the monies that are being paid from Vons *do not belong to your client personally*. They are property of her bankruptcy estate. I've spoken to Joe Faccone and Kathy Lerner, both of whom understand this concept...Only [MLF] has been employed by the bankruptcy trustee, and thus, your firm cannot receive payments directly from the bankruptcy estate.

Djang Decl., Ex. A (December 13, 2018 email) (emphasis in original).

Ms. Linares does not have authority to approve or disapprove my firm's fees and costs. Only the bankruptcy trustee and the bankruptcy court have the authority to approve my firm's fees.

*Id.* (December 13, 2018 email)

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The funds belong to Ms. Linares' bankruptcy estate, and should be paid to the Trustee. If you are confused about this, please give me a call.

*Id.* (December 13, 2018 email)

[MLF] is the only law firm whose employment has been approved by the bankruptcy court. The trustee has offered to employ [HYP] but received no response to my questions from February 20 regarding proposed terms of employment and compensation...you cannot receive a check from the Trustee unless you are employed by the estate.

*Id.*, Ex. D (March 4, 2019 email)

Yazdanpanah and HYP rejected the Trustee's proposal for months, positing that HYP was not required to be employed by the estate because the firm co-counseled the Debtor with MLF. *See* Djang Decl., Ex. D. Nevertheless, HYP eventually accepted the Trustee's employment offer, and, after another lengthy delay attributed to HYP, the Court approved its employment application on October 22, 2019 [Doc. No 48]. The Debtor executed the Settlement Agreement on or about October 8, 2019. The Court entered an order granting a Rule 9019 motion regarding the Settlement Agreement on December 4, 2019 [Doc. No. 57].

Even after it became an estate professional, HYP continually failed to cooperate with the Trustee by neglecting to provide information about the outstanding total of the Medical Liens and the identity of the lienholders. Accordingly, the Trustee emailed Yazdanpanah written requests on five different occasions between December 2019 and April 2020. *See* Djang Decl., Ex. H. Based on HYP's steadfast refusal to give a clear response concerning the outstanding Medical Liens, the Trustee filed the Motion on May 6, 2020 [Doc. No. 60], through which he seeks to pay off all administrative expenses and claims against the estate, free and clear of the Medical Liens, from the settlement proceeds. The Trustee argues that lacking any specific information on the Medical Liens impeded his efforts to administer the settlement funds and close the case. To that extent, the Trustee asks to be released of the responsibility to pay the Medical Liens, leaving that task in the Debtor's hands. Furthermore, the Trustee anticipates that the settlement proceeds will be sufficient to pay administrative expenses, all filed claims, and the professionals' fees and expenses, leaving the Debtor with a sizeable surplus north of \$395,000 to pay the Medical Liens

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in their totality [Note 1].

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As of the preparation of this tentative ruling, no objection to the Motion is on file. However, in their joint supplemental brief in response to the Court's July 8, 2020 tentative ruling [Doc. No. 98], the Trustee asserts that HYP finally turned over the long-requested information and further motion practice is unnecessary.

**C. Summary of Papers Filed in Connection with The Fee Applications**

*Summary of the Fee Applications*

Following attempts to resolve issues concerning fees and expenses, the Applicants determined to file separate fee applications. BBK Fee Application at 5. BBK, the Trustee's general bankruptcy counsel, applies for the allowance of fees in the sum of \$30,801 and costs in the sum of \$301.21 on an interim basis. MLF, as special litigation counsel, applies for the allowance of fees in the sum of \$225,000 and costs in the sum of \$21,330.04 on an interim basis. The legal fees that MLF requests constitute 45% of the settlement proceeds, based on the contingency fee stipulated in the Debtor's retainer agreement with HYP. *See* MLF Fee Application, Ex. 1. HYP, as Trustee's limited scope counsel, applies for the allowance of fees in the sum of \$2,500 on an interim basis; HYP does not request reimbursement of any costs. As of the filing of the Fee Applications, the estate holds approximately \$497,743.99. At a prior hearing on the Fee Applications, the Court determined it was not in a position to approve the Applicants' requested compensation due to the following concerns:

First, the Court notes that the Personal Injury Lawsuit was settled on or about October 31, 2018, but a settlement agreement was not signed by all the parties until June 2019. First Interim Application of BBK [Doc. No. 70] at 4. The Trustee's general bankruptcy counsel explains that this protracted delay and the attendant legal costs incurred were the result of certain demands made by H.Y.P. The Trustee must explain why the unnecessary expense and delay caused by H.Y.P. could not be expeditiously resolved by motion practice, and why the applicants' fees and costs requested herein should not be reduced accordingly. Second, the applicants must explain their decision in filing applications for interim fees and costs, as opposed to final applications. The Court is perplexed as to what additional legal services must be rendered by each applicant to bring this chapter 7 case to a close. Last, the Court notes that

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the order to employ H.Y.P. as special counsel to the trustee was entered on October 22, 2019, with an effective date of March 1, 2019. However, the fee application submitted by H.Y.P. consists of 6 thinly described work entries billed between March 5, 2020 and May 8, 2020. H.Y.P. broadly seeks \$2,500 for communicating with 10 different parties concerning medical liens against the Debtor's estate. Pursuant to LBR 2016, H.Y.P.'s fee application fails to supply an adequate description of services rendered for the benefit of the estate. The Court does not understand why the Trustee sought H.Y.P. to be employed *nunc pro tunc* to March 1, 2019, when it appears that the applicant did not render any services until March 2020. Additionally, the Court notes that H.Y.P.'s inability to cooperate with the Trustee has continued to be a problem, even after the Court approved its employment. Motion to Pay Claims Free and Clear of Purported Medical Liens [Doc. No. 59] at 7 ("the Trustee has requested of Mr. Yazdanpanah, in writing, a status and itemization of the Medical Liens no less than five times, on December 30, 2019, February 11, 2020, March 11, 2020, April 13, 2020, and April 29, 2020."). In sum, H.Y.P. must explain to the Court why it is entitled to any fees when it has consistently caused the estate unnecessary administrative costs and delays.

*See* Doc. No. 91. With respect to the MLF Fee Application, the Court remarked that:

The Court notes that the application to employ to [MLF] (the "Employment Application") does not disclose the contingency fee figure contemplated in the Fee Application, nor contains the retainer agreement supplied in the Fee Application. In addition, the Employment Application states that [MLF's] fees and expenses would be subject to the provisions under § 328, while the order approving the Employment Application asserts that compensation would be reviewed under § 330 [Doc. No. 30]. The Fee Application does not address such discrepancy.

*See* Doc. No. 92. (together with Doc. No. 91, the "July 8 Ruling").

In addition, the Trustee lodged an untimely opposition [Doc. No. 87] to the MLF Fee Application, objecting to the reimbursement of a specific item cost—\$2,867.41 for "funding interest" as an unauthorized request for post-petition credit.

*Summary of the Joint Supplemental Brief*

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On July 24, 2020, BBK and MLF filed the Joint Supplemental Brief [Doc. No. 98] in response to the Court's inquiries, asserting the following principal arguments and representations:

While careful to minimize administrative expense, the Trustee and BBK expended considerable effort to collaborate with HYP, despite Yazdanpanah's lack of familiarity with bankruptcy law and inability to follow the Trustee's instructions. On more than one occasion, the Trustee strongly considered filing a motion to secure HYP's cooperation but reconsidered once HYP and the Debtor acceded to the Trustee's instructions. The Trustee even solicited the assistance of bankruptcy attorneys Ori Blumenfeld (who acts as an intermediary between HYP and BBK) and Michael Berger. Although Yazdanpanah accepted the assistance of Mr. Blumenfeld and Mr. Berger, he would "forget" and not act on such advice. BBK and the Trustee further attempted to resolve any delays in connection with HYP by (a) asking Vons to proceed with the Settlement Agreement without Debtor's signature, (b) drafting HYP's interim fee application (never filed), (c) reminding HYP to deliver the necessary documentation in support of its employment application, and (d) requesting regular updates on the Medical Liens.

The Applicants filed interim fee applications, instead final fee applications, because this case is approximately 3 to 4 months away from closing. Before the case is closed, the Trustee must still oversee the completion of the estate's tax returns, a task that was delayed in connection with the long-awaited Medical Liens settlement amounts. HYP and MLF are not expected to incur any additional fees, while BBK only expects to bill a nominal fee in connection with the Trustee's final report.

Finally, the Trustee reports that MLF has agreed to waive "funding interest" fees of \$2,867.41, thereby resolving the Trustee's limited objection.

*Summary of the HYP Supplement*

Mr. Blumenfeld, on behalf of HYP, responded to the Court's inquiries, asserting the following principal arguments and representations:

First, HYP apologizes to the Court for the poor communication with the Trustee and the "unintentional delay." The yearlong delay was the result of a "non-learned bankruptcy lawyer" not associating with a bankruptcy attorney to receive proper



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assistance, as well the time and continued efforts expended to negotiate the claims asserted by the medical lienholders. While HYP ensured that the Debtor was updated “75-100 times regarding her settled personal injury case,” the firm acknowledges that it failed to communicate effectively with the Trustee due to Yazdanpanah’s lack of bankruptcy knowledge. More specifically, HYP was under the impression that it only owed a duty to the Debtor, as its client, and not to the Trustee. However, HYP’s limited scope services reduced the Medical Liens from \$274,712.36 to \$96,101, providing a “massive” benefit to the Debtor’s estate. However, given HYP’s prior experience working on contingency basis, the firm’s billing records are limited to the information provided in HYP Fee Application and the Supplement. HYP did not understand that it had to keep detailed billing records as part of its employment application. Finally, the HYP Fee Application should be construed as a “final,” rather than “interim,” application as it does not expect to seek additional compensation.

## **II. Findings of Fact and Conclusions of Law**

As a preliminary matter, the Court acknowledges the long-postponed delivery of critical information concerning the Medical Liens to the Trustee. The information in question consists of a listing of all medical lienholders and their specified settled claim amounts, which will permit the Trustee to prepare a final report and close the case as expeditiously as possible. Given that the Trustee has the information that precipitated the filing of the Motion, the Court considers that the relief sought in the Motion is moot.

### **A. The Fee Applications**

Section 330(a)(1) allows the Court to award “reasonable compensation for actual, necessary services rendered” by a professional. In determining the amount of compensation to award, the Court considers the nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case

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under this title;

(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;

(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

§ 330 (a)(3).

Alternatively, § 328(a) permits bankruptcy courts to award estate professionals compensation “on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis.” However, this section also authorizes courts to award compensation that differs from the employment terms, “if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.”

*MLF Fee Application*

There is still the lingering issue as to whether MLF’s requested fees and expenses are to be reviewed under § 328 or § 330(a). MLF seeks fees totaling \$225,000, based on a 45% contingency fee, which it claims is subject to the employment terms that this Court approved under § 328. The Court raised concerns over an apparent discrepancy in MLF’s compensation scheme in the July 8 Ruling [Doc. No. 92], but unfortunately neither the Trustee nor MLF took the opportunity to brief the issue in their Joint Supplemental Brief.

Local Bankruptcy Rule (“LBR”) 2014-1(b)(1)(A) states that an employment application “must specify unambiguously whether the professional seeks compensation pursuant to 11 U.S.C. § 328 or 11 U.S.C. § 330.” If the professional fails to “unambiguously” indicate as such in its retention application, the

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professional's compensation will be reviewed under § 330. *In re Circle K Corp.*, 279 F.3d 669, 671 (9th Cir. 2002). This is the case here. The application to employ MLF as special counsel sought compensation under both §§ 328 and 330, citing to both sections interchangeably. MLF Employment Application [Doc. No. 24-1] at 4 ("The Firm intends to apply to the Court, in conformity with sections 328 and 331 of the Bankruptcy Code..."); Declaration of Joseph Faccione Jr. [Doc. No. 24-1], ¶ 10 ("The Firm understands that its compensation in this case is subject to approval of this Court pursuant to 11 U.S.C. §§327, 330 and 331."). Apart from the careless drafting of the application, the Court's inquiry is further clouded as the application omits reference to either the 45% contingency arrangement or the underlying retainer agreement. The contingency terms were only recently disclosed to the Court as evidence supporting the MLF Fee Application. In fact, the Court learned through the MLF Fee Application, not the retention application, that the contingency terms come from the retainer agreement between the Debtor and HYP. *See* MLF Fee Application, Ex. 1.

Controlling authority produced by the Ninth Circuit holds that the compensation scheme applicable to an estate professional is governed by the order approving the employment application of the professional. In *In re B.U.M. Int'l, Inc.*, the Ninth Circuit found that the express approval of a professional's employment under § 330 indicated an intention by the bankruptcy court to "to reserve the power to conduct an 11 U.S.C. § 330 'reasonableness and benefit to the estate' review." 229 F.3d 824, 830 (9th Cir. 2000). In reaching its determination, the court disapproved of the more permissive approach adopted by the Fifth Circuit in *Donaldson Lufkin & Jenrette Sec. Corp. v. National Gypsum Co. (In re National Gypsum Co.)*, 123 F.3d 861 (5th Cir. 1997). In contrast, the Ninth Circuit reasoned that the bankruptcy court's order "specifically and in writing put all interested parties on notice that all of [the applicant's] fees were subject to court approval down the road." *See id.* at 829.

On August 6, 2018, the Court entered an order approving MLF's employment [Doc. No. 30], specifying that "[a]ll compensation and expense reimbursement of counsel in this case is subject to the approval of this Court pursuant to 11 U.S.C. § 330." This order was not subsequently challenged by any party. Moreover, the Court could not have approved MLF's compensation under § 328 because the terms of the contingency arrangement were not disclosed until recently. Accordingly, the Court will review MLF's requested compensation under the reasonableness standard set forth in § 330(a).

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Notwithstanding, based on its review of MLF Fee Application, the Court understands that MLF expended substantial expense and effort in securing the estate's only asset. Further, any undue delay in the closing of this case was not caused by MLF. The Court is prepared to fully approve MLF's fees and expenses, on an interim basis, with the condition that MLF shall submit adequate evidence supporting the requested compensation by no later than **August 25, 2020**. In support of its fee application, MLF may proffer evidence in the form of a detailed declaration under penalty of perjury and/or adequate billing records. Upon consideration of such supporting evidence under § 330(a), the Court will enter an order approving MLF's fees and expenses, partially or in full, on a final basis without further notice or hearing.

HYP Fee Application

Section 328(c) authorizes the Court to disqualify an estate professional employed under § 327, or limit or fully deny its requested compensation, if "such professional is not a disinterested person, or represents or holds an interest adverse to the interest of the estate... ." The employment of HYP as special litigation counsel required court approval under § 327(a).

Section 327(a) further mandates that all estate professionals disclose, at the outset of the retention application and on a recurring basis, "all facts which might bear on the professional's qualification for retention under § 327(a)." *In re Diamond Mortg. Corp. of Illinois*, 135 B.R. 78, 89 (Bankr. N.D. Ill. 1990) ("The purpose of this disclosure requirement is to allow the court...to evaluate the possibility of conflicts of interest and the potential for sanctions under §§ 327(a) and 328(c)."). Professionals must also "live up to all requirements of appropriate professional codes of conduct on a continuous basis." *Id.*

"To hold an interest adverse to the estate is either (1) to possess or assert an economic interest that would tend to decrease the value of the estate or create an actual or potential dispute with the estate or (2) to possess a predisposition that would amount to a bias against the estate." *In re Kobra Properties*, 406 B.R. 396, 403 (Bankr. E.D. Cal. 2009) (citing to *Tevis v. Wilke, Fleury, Hoffelt, Gould & Birney (In re Tevis)*, 347 B.R. 679, 693-94 (B.A.P. 9th Cir. 2006)). To represent an adverse interest is to serve as an attorney for an entity holding such an interest. *Tevis*, 347 B.R. at 688. "Adversity" is not defined in the Bankruptcy Code, but federal trial courts

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**Chapter 7**

"normally apply ethical rules of the state in which the court is located," akin to the imposition of attorney discipline. *In re Kobra Properties*, 406 B.R. 396 at 403. Through local rule 83-3.1.2, the Central District of California has adopted the Rules of Professional Conduct ("RPC") approved by the California Supreme Court; local rule 83-3.1.2 has been incorporated through LBR 2090-2.

RPC 1.1(c) provides in relevant part:

If a lawyer does not have sufficient learning and skill when the legal services are undertaken, the lawyer nonetheless may provide competent representation by (i) associating with or, where appropriate, professionally consulting another lawyer whom the lawyer reasonably believes to be competent, (ii) acquiring sufficient learning and skill before performance is required, or (iii) referring the matter to another lawyer whom the lawyer reasonably believes to be competent.

RPC 1.3, which addresses the level of diligence expected from attorneys, provides:

(a) A lawyer shall not intentionally, repeatedly, recklessly or with gross negligence fail to act with reasonable diligence in representing a client.

(b) For purposes of this rule, "reasonable diligence" shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or unduly delay a legal matter entrusted to the lawyer.

Following the approval of its employment as special litigation counsel, HYP failed to live up to the standards prescribed by § 327(a). As discussed above, the conduct exhibited by HYP as an estate professional resulted in the delay of this case for months, substantially increasing administrative expense to the estate and the Debtor. The justification proffered by HYP that its principal is a non-learned bankruptcy attorney is weak. HYP could have easily moved the Debtor's case forward by simply cooperating with the Trustee with respect to the negotiation of the Medical Liens. HYP's failure to comply with the RPC does not stem from a poor understanding of bankruptcy procedure. Any limitations in Yazdanpanah's legal abilities could have

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been timely remedied if he had followed the advice of Mr. Berger, Mr. Blumenfeld, or the Trustee's counsel. Nevertheless, the recalcitrant behavior of HYP persisted until the Trustee was pressured to file the Motion in May 2020.

Further, in its role of special litigation counsel, the Court finds that HYP held and/or represented an interest adverse to the estate: "...I believed that a bigger equal duty was owed to the Debtor, rather only to the Trustee, because I believed that the Debtor was my client, not the Trustee...." Declaration of Yazdanpanah in support of HYP Supplement [Doc. No. 97], ¶ 5. If Yazdanpanah was unwilling to serve, or did not understand, its role as Trustee's special counsel, he should have disclosed as much at the outset of the employment offer. Yazdanpanah's failure to do so meant that HYP concurrently represented an interest, which he believed was owed a "bigger equal duty" than the estate. Here, Yazdanpanah's belief had an actual detrimental impact on the estate as HYP failed to update the Trustee on the Medical Liens for months. Again, claiming ignorance is unpersuasive because HYP had ample resources to enable Yazdanpanah to become readily competent. In failing to uphold its duty, HYP prevented this case from closing, thereby harming the interests of the creditors and denying Debtor her long-awaited fresh start. *In re Kobra Properties*, 406 B.R. 396, 403 (holding an adverse interest is "to possess a predisposition that would amount to a bias against the estate.").

"Section 328(c) vests the court with authority to deny fee requests in whole or in part." *In re Diamond Mortg. Corp. of Illinois*, 135 B.R. 78 at 98; *see also Neben & Starrett, Inc. v. Chartwell Fin. Corp. (In re Park-Helena Corp.)*, 63 F.3d 877, 880-81 (9th Cir.1995) (Disclosure that later turns out to be incomplete can be remedied by denial of fees.).

In its discretion, the Court has ample justification to deny HYP's requested compensation in full. HYP failed to disclose its adverse bias against the estate, at the start of his employment or at any time thereafter, causing harm to the creditors and Debtor. Any benefit that the services of HYP might have conferred on the estate are cancelled out by the time and resources required to compel HYP's compliance. Trustee's counsel incurred no less than \$4,343 in preparing the Motion and attempting to confer with HYP on the status of the Medical Liens. *See* BBK Fee Application, Ex. 2. Therefore, HYP is not entitled to any of its fees in the amount of \$2,500.

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*The BBK Fee Application*

Section 704(a)(1) requires that the chapter 7 trustee “collect and reduce to money the property of the estate...and close such estate as expeditiously as is compatible with the best interests of parties in interest.” By accepting employment as counsel to the Trustee, BBK acknowledged its responsibility to “[a]ssist and advise the Trustee with the recovery of property of the Estate...[a]ssist the Trustee in legal action or otherwise to recover other assets for the benefit of the creditors...[and] [g]ive the Trustee legal advice with respect to his duties and powers in this matter.” *See* BBK Employment Application [Doc. No. 20] at 3-4.

As the recitation of the background facts set forth above illustrates, BBK failed to adequately counsel the Trustee on his duties to collect estate assets and expeditiously close this case. While the energy expended on educating Yazdanpanah on bankruptcy procedure is laudable, such energy would have been more fruitfully invested in ensuring HYP’s compliance, or discipline, through appropriate motion practice. The decision to delay the filing of any kind of motion against HYP until May 2020 proved difficult not only to the ability of the Trustee to oversee this case, but to the interests of creditors, whose expected distribution was unnecessarily prolonged. The court finds the administration of this bankruptcy case was unjustifiably delayed because of:

1. The failure to take proper action to ensure the consummation of the Settlement Agreement for nearly a year;
2. The decision to wait approximately 6 months for HYP to deliver the requisite documentation for its employment application;
3. The decision to delay the filing of the Motion until May 2020, even after HYP had long proved itself uncooperative and repeatedly declined to update the Trustee on the status of the Medical Liens for months; and
4. The preparation and submission of pleadings with critical errors, discrepancies, and omissions, prompting the request for supplemental briefing. *See, e.g.*, Doc. No. 24-1.

In view of the above-referenced events, the Court finds that BBK’s requested fees

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**CONT...**      **Maria Del Carmen Linares**  
should be reduced by \$2,000.

**Chapter 7**

Based upon the foregoing, the Court finds that BBK is entitled to fees in the amount of \$28,801 and expenses in the amount of \$301.21, on an interim basis.

### **III. Conclusion**

For the reasons set forth above, the Motion is DENIED as moot and the Fee Applications are GRANTED IN PART as follows:

- (1) The MLF Fee Application is GRANTED in the total amount of \$243,462.63 (less the voluntary expense reduction of \$2,867.41 for the litigation funding interest), on an interim basis, subject to the conditions set forth above.
- (2) The HYP Fee Application is DENIED in full.
- (3) The BBK Fee Application is GRANTED in the total amount of \$29,102.21 (less a fee reduction of \$2,000), on an interim basis.

The Trustee shall lodge conforming proposed orders within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The figures stated on page 7 of the Motion are inconsistent with the fees and expenses, totaling \$250,000, requested by MLF on its interim fee application [Doc. No. 71].

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

Maria Del Carmen Linares

Represented By



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11:00 AM

**CONT... Maria Del Carmen Linares**

**Chapter 7**

Caroline Djang

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Caroline Djang

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**2:15-21374 Maria Del Carmen Linares**

**Chapter 7**

**#101.00** Hearing  
RE: [70] Application for Compensation (First Interim) for **BEST BEST & KRIEGER LLP** Period: 6/4/2018 to 6/11/2020, Fee: \$30801.00, Expenses: \$301.21.

fr. 7-8-20

Docket 70

**Tentative Ruling:**

8/3/2020

See Cal. No. 100, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Maria Del Carmen Linares

Represented By  
Caroline Djang

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Caroline Djang

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**2:15-21374 Maria Del Carmen Linares**

**Chapter 7**

**#102.00** Hearing

RE: [71] Application for Compensation (First Interim) for McElfish Law Firm,  
Special Counsel, Period: 8/8/2018 to 12/31/2019, Fee: \$225000.00, Expenses:  
\$21330.04.

fr. 7-8-20

Docket 71

**Tentative Ruling:**

8/3/2020

See Cal. No. 100, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Maria Del Carmen Linares

Represented By  
Caroline Djang

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Caroline Djang

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:15-21374 Maria Del Carmen Linares**

**Chapter 7**

**#103.00** Hearing  
RE: [59] Motion to Pay Claims Free and Clear of Purported Medical Liens;  
Declarations of David M. Goodrich and Caroline R. Djang (Djang, Caroline)

FR. 6-2-20

Docket 59

**Tentative Ruling:**

8/3/2020

See Cal. No. 100, incorporated in full by reference.

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

Maria Del Carmen Linares

Represented By  
Caroline Djang

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Caroline Djang

**United States Bankruptcy Court  
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**Tuesday, August 4, 2020**

**Hearing Room 1568**

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**2:19-21593 C & F Sturm, LLC**

**Chapter 11**

**#104.00** HearingRE: [52] Application for Compensation Supplement, Declarations of Stella Havkin and Christina M. De Musee for Stella A Havkin, Debtor's Attorney, Period: 10/1/2019 to 7/9/2020, Fee: \$22,055.00, Expenses: \$2,068.15.

Docket 52

**Tentative Ruling:**

8/3/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$22,055 [Doc. No. 52]

Expenses: \$2,068.15

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

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**CONT... C & F Sturm, LLC**

**Chapter 11**

**Debtor(s):**

C & F Sturm, LLC

Represented By  
Stella A Havkin

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11:00 AM

**2:19-21593 C & F Sturm, LLC**

**Chapter 11**

**#105.00** Hearing re [45] interim fee applications filed by Havkin & Shrago.

Docket 0

**Tentative Ruling:**

8/3/2020

See Cal. No. 104, incorporated in full by reference.

**Party Information**

**Debtor(s):**

C & F Sturm, LLC

Represented By  
Stella A Havkin

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#1.00** Hearing  
RE: [5120] Motion to Reject Lease or Executory Contract by and between the Debtors and Local 39 Pension and Trust Agreements, Effective Immediately Upon The Rejection of The Local 39 CBA Memorandum of Points and Authorities; Declaration Of Richard G. Adcock

Docket 5120

**\*\*\* VACATED \*\*\* REASON: DUPLICATE OF 14.10**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



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Los Angeles  
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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00** Hearing

RE: [4957] Application for Compensation -[Patient Care Ombudsmans Monthly Fee Application For Allowance And Payment Of Interim Compensation And Reimbursement Of Expenses For The Period May 1, 2020 Through May 31, 2020 For Himself And For Dr. Tim Stacy Dnp, Acnp-Bc (POS Attached)]- for Jacob Nathan Rubin, Ombudsman Health, Period: 5/1/2020 to 5/31/2020, Fee: \$89,780, Expenses: \$0.00.

Docket 4957

**\*\*\* VACATED \*\*\* REASON: CALENDARED IN ERROR .**

**Tentative Ruling:**

- NONE LISTED -

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#3.00** HearingRE: [5079] Application for Compensation Second Interim Application of Arent Fox LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al., Creditor Comm. Aty, Period: 5/1/2019 to 4/30/2020, Fee: \$77,062.00, Expenses: \$44.18.

Docket 5079

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On March 5, 2019, the Court entered an order authorizing the Official Committee of Unsecured Creditors to employ Arent Fox LLP ("Arent Fox") as its special health and regulatory counsel. *See* Doc. No. 1703. Arent Fox seeks the allowance of fees and expenses for the period between May 1, 2019 and April 30, 2020 (the "Application Period"). *See* Doc. No. 5079 (the "Application"). Arent Fox has not submitted any Monthly Applications and has not received any payments under the Fee Procedures

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Order.

No objections to the Application have been filed. Having reviewed the Application and the *Declaration of Michael Strollo* [Doc. No. 5080] in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$77,062.00

Expenses: \$44.18

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II

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Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**2:18-20151 Verity Health System of California, Inc.**

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**#4.00** HearingRE: [5085] Application for Compensation Bartko Zankel Bunzel & Miller's First Interim Application for Fees and Expense Reimbursement for the Period of January 9, 2020 through April 30, 2020; Declaration of An Nguyen Ruda for Kerry L Duffy, Debtor's Attorney, Period: 1/9/2020 to 4/30/2020, Fee: \$630,052.00, Expenses: \$9,714.01.

Docket 5085

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On February 27, 2020, the Court entered an order approving the Debtors' application to employ Bartko Zankel Bunzel & Miller ("BZBM") as the Debtors' special labor and employment counsel. *See* Doc. No. 4182. BZBM seeks the allowance of fees and expenses for the period between January 9, 2020 and April 30, 2020 (the "Application Period"). *See* Doc. No. 5085 (the "Application"). Pursuant to the Fee Procedures Order, BZBM has submitted three Monthly Applications [Doc.

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Nos. 4338, 4654, and 4814] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application and the *Declaration of Richard Adcock* [Doc. No. 5161] filed in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$630,052.00

Expenses: \$9,714.01

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel

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Los Angeles  
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**Verity Health System of California, Inc.**

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John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

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Los Angeles  
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2:18-20151 Verity Health System of California, Inc.

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**#5.00** HearingRE: [5088] Application for Compensation Pachulski Stang Ziehl & Jones LLPs Fifth Interim Application For Allowance And Payment Of Compensation And Reimbursement of Expenses For The Period January 1, 2020 April 30, 2020; Declarations Of Henry C. Kevane And Elspeth D. Paul In Support Thereof for Pachulski Stang Ziehl & Jones LLP, Debtor's Attorney, Period: 1/1/2020 to 4/30/2020, Fee: \$683,969.02, Expenses: \$12,177.42.

Docket 5088

**Tentative Ruling:**

8/4/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 14, 2018, the Court entered an order approving the Debtors' application to employ Pachulski Stang Ziehl & Jones, LLP ("PSZJ") as the Debtors' conflicts counsel. *See* Doc. No. 818. PSZJ seeks the allowance of fees and expenses



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Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, August 5, 2020**

**Hearing Room 1568**

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**CONT... Verity Health System of California, Inc. Chapter 11**

for the period between January 1, 2020 and April 30, 2020 (the "Application Period"). See Doc. No. 5088 (the "Application"). Pursuant to the Fee Procedures Order, PSZJ has submitted four Monthly Applications [Doc. Nos. 4087, 4305, 4639, and 4785] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application and the *Declaration of Elspeth D. Paul* [Doc. No. 5088] in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$683,969.02

Expenses: \$12,177.42

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. See Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** HearingRE: [5087] Application for Compensation Berkeley Research Group, LLC's Fifth Interim Fee Application For Allowance And Payment Of Interim Compensation And Reimbursement Of Expenses For The Period January 1, 2020 Through April 30, 2020 for Tania M Moyron, Financial Advisor, Period: 1/1/2020 to 4/30/2020, Fee: \$3,648,172.64, Expenses: \$172,003.79.

Docket 5087

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 7, 2018, the Court entered an order approving the Debtors' application to employ Berkeley Research Group, LLC ("BRG") as the Debtors' financial and restructuring advisor. *See* Doc. No. 785. BRG seeks the allowance of fees and expenses for the period between January 1, 2020 and April 30, 2020 (the "Application Period"). *See* Doc. No. 5087 (the "Application"). Pursuant to the Fee Procedures Order, BRG has submitted four Monthly Applications [Doc. Nos. 4522,

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4623, 4674, and 4842] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$3,648,172.64

Expenses: \$172,003.79

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron

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Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#7.00** HearingRE: [5095] Motion to Approve Compromise Under Rule 9019 Debtors' Notice and Motion to Approve Compromise Between Debtors and NantWorks LLC Pursuant to Federal Rule of Bankruptcy Procedure 9019; Declaration of Richard G. Adcock in Support Thereof

Docket 5095

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice and Motion to Approve Compromise Between Debtors and Nantworks LLC Pursuant to Federal Rule of Bankruptcy Procedure 9019 [Doc. No. 5095] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5082, 5083, 5085, 5087, 5088, 5094, 5095 and 5096 [Doc. No. 5158]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018, Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' case are being jointly administered. The Debtors seek approval of a settlement agreement (the "Settlement Agreement") between the Debtors and Nantworks LLC ("NantWorks"), which resolves cure issues pertaining to a *Master Lease Agreement* dated November 30, 2017 (the "Master Lease"), between Verity Holdings LLC ("Holdings") and

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**Chapter 11**

Nantworks. No opposition to the Motion is on file.

The Master Lease establishes the general terms and conditions under which NantWorks, as lessor, leases to Holdings, as lessee, certain units of equipment, personal property, furnishings, replacement parts, and tools (the “Leased Equipment”). The equipment that is subject to the Master Lease is held by the Debtors at each of the Debtors’ hospitals. Upon termination of the Master Lease, the Debtors are obligated to either (1) return all of the Leased Equipment in its current condition subject only to normal wear and tear or (2) acquire replacement equipment of similar quality.

In connection with prior sales of the Debtors’ hospitals, the Debtors and NantWorks have entered into stipulations extending the deadline for NantWorks to file cure objections related to the potential assumption and assignment of the Master Lease (the “Cure Stipulations”).

The Debtors store certain magnetic radiation imaging (“MRI”) equipment that is subject to the Master Lease at a storage facility owned by Walker Brothers located in Anaheim, California (the “Walker Brothers Storage Facility”). The Master Lease requires the Debtors to indemnify, protect, and hold harmless NantWorks from and against all losses, damages, injuries, claims, and judgments arising out of the use, condition, or operation of the Leased Equipment (including the MRI equipment).

On July 9, 2019, Walker Brothers commenced litigation against NantWorks, alleging certain damages owed in connection with the storage of the MRI equipment at the Walker Brothers Storage Facility. NantWorks asserts that any judgment or the costs of settlement related to the Walker Brothers litigation is payable by the Debtors under the Master Lease.

Under the Settlement Agreement, the Debtors shall make the following payments to NantWorks in full satisfaction of any objection or cure claim preserved by NantWorks:

- 1) The Debtors shall pay NantWorks the sum of \$3,600,000, consisting of:
  - a) \$316,105 for Leased Equipment located on the campuses of Saint Louise Regional Hospital and O’Connor Hospital;
  - b) \$2,498,536 for Leased Equipment located on the St. Vincent Medical Center campus;
  - c) \$266,792 for Leased Equipment located on the Seton Medical Center and Seton Coastsides campuses; and
  - d) \$518,637 for Leased Equipment located on the St. Francis Medical Center campus.

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- 2) In connection with the buy-out of the Leased Equipment, the Debtors have agreed to pay sales and use taxes totaling \$334,292.98.
- 3) The Debtors shall pay \$50,000 in connection with the litigation brought by the Walker Brothers.

The Debtors have also agreed to transfer certain of the Leased Equipment to NantWorks (the "Transferred Equipment").

## **II. Findings and Conclusions**

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Settlement Agreement is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

### *Probability of Success on the Merits and Complexity of the Litigation*

These factors weigh in favor of approving the Settlement Agreement. The Master Lease covers several hundred pieces of Leased Equipment located at six different hospitals. It would be time consuming and costly for the Debtors to resolve NantWorks' cure objections on a piecemeal basis. Nor is there any guaranty that the Debtors would be able to resolve the cure objections in a manner favorable to the estates.

The replacement cost of the Leased Equipment is greater than the buyout purchase price under the Settlement Agreement. Thus, the Settlement Agreement is a good deal for the estates. In addition, resolution of the issue is particularly important given that the hospital buyers are using the Leased Equipment pursuant to subleases with



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Holdings.

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*Paramount Interests of Creditors*

This factor weighs strongly in favor of approving the Settlement Agreement. The Committee does not object to the Settlement Agreement, and no creditors have objected to the Settlement Agreement.

*Difficulties to be Encountered in the Matter of Collection*

This factor does not apply.

**III. Conclusion**

Based upon the foregoing, the Settlement Agreement is APPROVED and the Motion is GRANTED in its entirety. The Debtors shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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Central District of California  
Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#8.00** HearingRE: [5097] Application for Compensation Fifth Interim Application Of Dentons US LLP, As Debtors Counsel, For Fees And Expense Reimbursement For The Period January 1, 2020 Through April 30, 2020; Declaration Of John A. Moe, II for John A Moe II, Debtor's Attorney, Period: 1/1/2020 to 4/30/2020, Fee: \$4,042,367.50, Expenses: \$75,295.12.

Docket 5097

**Tentative Ruling:**

8/4/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On September 28, 2018, the Court entered an order approving the Debtors' application to employ Dentons US LLP ("Dentons") as the Debtors' general bankruptcy counsel. *See* Doc. No. 712. Dentons seeks the allowance of fees and expenses for the period between January 1, 2020 and April 30, 2020 (the "Application

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Period"). *See* Doc. No. 5097 (the "Application"). Pursuant to the Fee Procedures Order, Dentons has submitted four Monthly Applications [Doc. Nos. 4271, 4601, 4774, and 4869] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application and the *Declaration of Richard Adcock* [Doc. No. 5225] in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$4,042,367.50

Expenses: \$75,295.12

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

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**Chapter 11**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
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**#9.00** HearingRE: [5075] Application for Compensation Fifth Interim Application of Milbank LLP for Approval and Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for Milbank, Tweed, Hadley & McCloy, Creditor Comm. Atty, Period: 1/1/2020 to 4/30/2020, Fee: \$1,196,797.50, Expenses: \$28,308.43.

Docket 5075

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 6, 2018, the Court entered an order authorizing the employment of Milbank LLP ("Milbank") as counsel to the Official Committee of Unsecured Creditors (the "Committee"). *See* Doc. No. 778. Milbank seeks the allowance of fees and expenses for the period between January 1, 2020 and April 30, 2020 (the "Application Period"). *See* Doc. No. 5075 (the "Application"). Pursuant to the Fee Procedures Order, Milbank has submitted four Monthly Applications [Doc. Nos. 4180, 4356, 4655, and 4818] with respect to work performed during the Application

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Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application and the *Declaration of Michael Strollo* [Doc. No. 5080] filed in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$1,196,797.50

Expenses: \$28,308.43

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II

**United States Bankruptcy Court  
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Los Angeles  
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**Verity Health System of California, Inc.**

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Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



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Los Angeles  
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**#10.00** HearingRE: [5071] Application for Compensation Fifth Interim Application of FTI Consulting, Inc. for Approval and Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2020 to 4/30/2020, Fee: \$394,887.00, Expenses: \$0.00.

Docket 5071

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On November 14, 2018, the Court entered an order authorizing the employment of FTI Consulting, Inc. ("FTI") as financial advisor to the Official Committee of Unsecured Creditors. *See* Doc. No. 822. FTI seeks the allowance of fees and expenses for the period between January 1, 2020 and April 30, 2020 (the "Application Period"). *See* Doc. No. 5071 (the "Application"). Pursuant to the Fee Procedures Order, FTI has submitted four Monthly Applications [Doc. Nos. 4181, 4357, 4656, and 4820] with respect to work performed during the Application Period, none of which have been

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opposed.

No objections to the Application have been filed. Having reviewed the Application and the *Declaration of Michael Strollo* [Doc. No. 5080] filed in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$394,887.00

Expenses: \$0.00

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

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**Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

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Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#11.00** HearingRE: [5067] Application for Compensation Fifth Interim Application for Nelson Hardiman LLP, Special Counsel, Period: 1/1/2020 to 4/30/2020, Fee: \$413,914.60, Expenses: \$1,502.08. & 2 (Professionals) # 2 Exhibit 3 (Combined Statements) # 3 Exhibit 4 (Attorney Bios) # 4 Exhibit 5 (Expenses)) (Gill, Lawrence)

Docket 5067

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On October 30, 2018, the Court entered an order approving the Debtors' application to employ Nelson Hardiman, LLP ("Nelson Hardiman") as the Debtors' special healthcare regulatory counsel. *See* Doc. No. 713. Nelson Hardiman seeks the allowance of fees and expenses for the period between January 1, 2020 and April 30, 2020 (the "Application Period"). *See* Doc. No. 5067 (the "Application"). Pursuant to the Fee Procedures Order, Nelson Hardiman has submitted four Monthly Applications [Doc. Nos. 4156, 4342, 4625, and 4766] with respect to work performed during the

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Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$413,914.60

Expenses: \$1,502.08

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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**CONT...**

**Verity Health System of California, Inc.**

**Chapter 11**

Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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2:18-20151 Verity Health System of California, Inc.

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#12.00 Hearing

RE: [5042] Application for Compensation -[Application For Payment Of Interim Fees And/Or Expenses Under 11 U.S.C. § 331 Or § 330 (POS Attached)]- for . **Jacob Rubin, MD, FACC** and **Dr. Tim Stacy DNP, ACNP-BC**, Ombudsman Health, Period: 12/1/2019 to 4/30/2020, Fee: \$320,091.50, Expenses: \$0.00.

Docket 5042

**Tentative Ruling:**

8/4/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

At the outset the court would like to acknowledge its receipt and review of the various reports prepared by Dr. Rubin. In particular, the report filed on April 6, 2020, [Doc. Nos. 4445 and 4446] was exemplary and of great assistance to the court. The professionalism and competence displayed by Dr. Rubin during the course of the hearings in this case is greatly appreciated.

On October 25, 2018, the Court entered an *Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 661], and on October 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtor is authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application

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**Chapter 11**

without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On September 25, 2018, the Court entered an order directing the United States Trustee (the "UST") to appoint a Patient Care Ombudsman (the "PCO"). Doc. No. 283. On October 9, 2018, the Court entered an order approving the UST's appointment of Dr. Jacob Nathan Rubin, MD, FACC, as the PCO. Doc. No. 430. On November 2, 2018, the Court authorized Dr. Rubin to employ Dr. Tim Stacy, DNP, ACNP-BC as a consultant to assist him with the discharge of his duties. Doc. No. 753.

The PCO and Dr. Stacy seek the allowance of fees and expenses for the period between December 1, 2019 and April 30, 2020 (the "Application Period"). *See* Doc. No. 5042 (the "Application"). Pursuant to the Fee Procedures Order, the PCO and Dr. Stacy have submitted five Monthly Applications [Doc. Nos. 4006, 4162, 4351, 4651, and 4791] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

**PCO:**

Fees: \$203,670.00

Expenses: \$0.00

**Dr. Stacy:**

Fees: \$116,421.50

Expenses: \$0.00

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling**



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**and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#13.00** HearingRE: [5044] Application for Compensation -[Application For Payment Of Interim And/Or Expenses Under 11 U.S.C. § 331 Or § 330 (POS Attached)]- for Levene, Neale, Bender, Yoo & Brill L.L.P., Ombudsman Health, Period: 12/1/2019 to 4/30/2020, Fee: \$42,662.00, Expenses: \$1,908.29.

Docket 5044

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On October 25, 2018, the Court entered an *Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 661], and on October 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtor is authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On October 9, 2018, the Court entered an order appointing Jacob Nathan Rubin, MD as the patient care ombudsman (the "PCO") in these cases. Doc. No. 430. On November 2, 2018, the Court approved the PCO's application to employ Levene, Neale, Bender, Yoo & Brill, LLP ("LNBYB") as its counsel. Doc. No. 751.

LNBYB seeks the allowance of fees and expenses for the period between

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December 1, 2019 and April 30, 2020 (the "Application Period"). *See* Doc. No. 5044 (the "Application"). Pursuant to the Fee Procedures Order, LNBYB has submitted five Monthly Applications [Doc. Nos. 4007, 4163, 4350, 4652, and 4792] with respect to work performed during the Application Period, none of which have been opposed.

No objections to the Application have been filed. Having reviewed the Application, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$42,662.00

Expenses: \$1,908.29

LNBYB is not required to hold any of the fees and expenses awarded above in its trust account.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

**Party Information**

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

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**#14.00** HearingRE: [5041] Application for Compensation Jeffer Mangels Butler & Mitchell LLPs Third Interim Application for Allowance and Payment of Compensation and Reimbursement of Expenses; Declaration of Thomas M. Geher for Jeffer Mangels Butler & Mitchell LLP, Special Counsel, Period: 1/1/2020 to 4/30/2020, Fee: \$38,796.50, Expenses: \$7,652.79. (Geher, Thomas)

Docket 5041

**Tentative Ruling:**

8/4/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 16, 2018, the Court entered an *Amended Order on Debtors' Motion Establishing Procedures for Monthly Payment of Fees and Expense Reimbursement* [Doc. No. 826] (the "Fee Procedures Order"). **[Note 1]** Pursuant to the Fee Procedures Order, each professional employed by the estate may file a monthly fee application (each, a "Monthly Application") seeking payment of interim compensation in an amount equal to 80% of the fees sought and 100% of the expenses incurred during the prior month. If no objection is filed and served within ten calendar days after the date of the filing of the notice of the Monthly Application, the Monthly Application is deemed approved on an interim basis, and the Debtors are authorized to pay 80% of the fees and 100% of the expenses requested in the Monthly Application without further order of the Court. **[Note 2]** The failure to object to a Monthly Application does not result in a waiver of a party's ability to object to an interim fee application.

On August 7, 2019, the Court entered an order approving the Debtors' application to employ Jeffer Mangels Butler & Mitchell LLP ("JMBM") as the Debtors' special labor and employment counsel. *See* Doc. No. 2862. JMBM seeks the allowance of fees and expenses for the period between January 1, 2020 and April 30, 2020 (the

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"Application Period"). *See* Doc. No. 5041 (the "Application"). Pursuant to the Fee Procedures Order, JMBM has submitted two Monthly Applications [Doc. Nos. 4131 and 4277] with respect to work performed during the Application Period, none of which have been opposed. (JMBM did not submit Monthly Applications for March or April 2020. For April 2020, JMBM did not incur any fees or costs. With respect to March 2020, nothing in the Fee Procedures Order requires professionals to submit a Monthly Application; the only consequence of failing to submit a Monthly Application is that the professional will have to wait longer to receive payment.)

No objections to the Application have been filed. Having reviewed the Application and the *Declaration of Peter Chadwick* [Doc. No. 5057] filed in support thereof, the Court approves, on an interim basis, the fees and expenses set forth below, which may be paid (to the extent not previously paid) subject to available cash on hand in the estate:

Fees: \$38,796.50

Expenses: \$7,652.79

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

An initial Fee Procedures Order was entered on October 25, 2018. *See* Doc. No. 661. The initial Fee Procedures Order did not list Nelson Hardiman, LLP, the Debtors' healthcare regulatory counsel, as a party entitled to file Monthly Fee Applications. The Amended Fee Procedures Order corrected this omission and is otherwise identical to the initial Fee Procedures Order.

**Note 2**

Pachulski Stang Ziehl & Jones, LLP ("PSZJ"), which has been employed as the Debtors' conflicts counsel, is authorized to receive payment of fees and expenses every four months, instead of every month.

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**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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Los Angeles  
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#14.10 Hearing  
RE: [5125] Debtors' Amended Motion to Reject Local 39 Pension and Trust Agreements, Effective Immediately Upon the Rejection of the Local 39 CBA

Docket 5125

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Amended Notice of Motion and Motion to Reject Local 39 Pension and Trust Agreements, Effective Immediately Upon the Rejection of the Local 39 CBA [Doc. No. 5125] (the "Motion")
  - a) Application for Order Setting Hearing on Shortened Notice [Doc. No. 5128]
  - b) Order Granting Application and Setting Hearing on Shortened Notice [Doc. No. 5131]
  - c) Notice of Hearing on Debtors' Motion to Reject Local 39 Pension and Trust Agreements, Effective Immediately Upon the Rejection of the Local 39 CBA [Doc. No. 5135]
  - d) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5118, 5119, 5120, 5124, 5125, 5128, 5129, 5130, 5131, 5133, 5135 and 5137 [Doc. No. 5334]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018, Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for



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relief under Chapter 11 of the Bankruptcy Code. The Debtors' case are being jointly administered.

The Debtors move to reject a *Pension Trust Fund Agreement* (the "Pension Agreement") and a *Trust Agreement* (the "Trust Agreement," and together with the Pension Agreement, the "Agreements") between certain of the Debtors and the Stationary Engineers Local 39 labor union ("Local 39"). The Pension Agreement established the Stationary Engineers Local 39 Trust Funds (the "Local 39 Pension Funds"), a multi-employer defined benefit plan; the Trust Agreement established the Stationary Engineers Health & Welfare Trust Fund (the "Welfare Trust Fund"), also a multi-employer defined benefit plan. The Debtors request that both rejections take effect immediately upon the Debtors' rejection and termination of the corresponding collective bargaining agreement with Local 39 (the "Local 39 CBA"). (On July 31, 2020, the Court entered a Memorandum of Decision [Doc. No. 5306] granting the Debtors' motion to reject and terminate the Local 39 CBA. An order memorializing the relief granted in the Memorandum of Decision has not yet been entered.) The Debtors seek to reject the Agreements because AHMC, the purchaser of the assets to which the Agreements pertain, does not intend to assume the Agreements.

No opposition to the Motion is on file.

## II. Findings and Conclusions

Section 365(a) provides that the Debtors, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Castetter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve

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**Verity Health System of California, Inc.**

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the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreements. In view of the sale of the assets to which the Agreements pertain, the Agreements provide no benefit to the estates. Absent rejection, the estates could be exposed to administrative expense liability in connection with residual obligations under the Agreements. The Debtors are authorized to reject the Agreements, with rejection to take effect immediately upon entry of the order authorizing the rejection of the Local 39 CBA.

### **III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** in its entirety. The Debtors shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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**Verity Health System of California, Inc.**

**Chapter 11**

Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
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**Chapter 11**

**#14.20 Hearing**

RE: [5118] Motion to Reject Lease or Executory Contract Pursuant To 11 U.S.C. § 365(A), Trust Agreement For The Retirement Plan For Hospital Employees, as Amended

Docket 5118

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Trust Agreement for the Retirement Plan for Hospital Employees, as Amended [Doc. No. 5118] (the "Motion")
  - a) Application for Order Setting Hearing on Shortened Notice [Doc. No. 5128]
  - b) Order Granting Application and Setting Hearing on Shortened Notice [Doc. No. 5131]
  - c) Notice of Hearing on Debtors' Motion to Reject Local 39 Pension and Trust Agreements, Effective Immediately Upon the Rejection of the Local 39 CBA [Doc. No. 5135]
  - d) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5118, 5119, 5120, 5124, 5125, 5128, 5129, 5130, 5131, 5133, 5135 and 5137 [Doc. No. 5334]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018, Verity Health System of California, Inc. ("VHS") and

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certain of its subsidiaries (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors’ case are being jointly administered.

The Debtors move to reject the Trust Agreement for the Retirement Plan for Hospital Employees (the “Trust Agreement”), a multi-employer defined benefit plan, with rejection to take effect immediately upon the Debtors’ rejection and termination of the corresponding collective bargaining agreements (the “CBAs”) that require the Debtors’ participation in the Retirement Plan for Hospital Employees (“RPHE”). The Debtors seek to reject the Trust Agreement to insure that the estates are not exposed to administrative expense liability in connection with any residual claims that could arise thereunder.

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Section 365(a) provides that the Debtors, "subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Casterter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession’s conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

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The Court finds that the Debtors have shown sufficient cause to reject the Trust Agreement. The Debtors have obtained authorization to terminate the CBAs that require the Debtors to fulfill the obligation under the Trust Agreement to make contributions to the RPHE. Upon the closing of the sale of Seton Medical Center, the Debtors will no longer employ the employees who participated in the RPHE. There is no business reason for the Debtors to continue to be bound by the Trust Agreement. Further, absent rejection, the estates could potentially face administrative expense liability under the Trust Agreement.

The Debtors are authorized to reject the Trust Agreement, with rejection to take effect immediately upon the entry of the orders authorizing the rejection of the corresponding CBAs.

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** in its entirety. The Debtors shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

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**Verity Health System of California, Inc.**

Nicholas A Koffroth  
Kerry L Duffy

**Chapter 11**

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#14.30** Hearing re [4360] Assumption Objection Re: Seton Asserted by California Transplant Services, Inc.

FR. 7-29-20

Docket 0

**Tentative Ruling:**

8/4/2020

Hearing **VACATED** as moot. The Debtors have agreed to the cure amount informally asserted by California Transplant Services, Inc. *See* Doc. No. 5351.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy



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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#14.40** Hearing re Assumption Objection Re: SETON Asserted by Kaiser Foundation Hospitals [Doc. No. 4682]  
FR. 5-20-20; 6-3-20; 7-1-20; 7-15-20; 7-29-20

Docket 0

**Tentative Ruling:**

8/4/2020

Hearing **VACATED**. The Debtors have reached a settlement in principle with Kaiser Foundation Hospitals. *See* Doc. No. 5351.

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

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#15.00** Status Hearing re [288] Initial Status Conference Pursuant To 11 U.S.C. § 1188 (Subchapter V) .

Docket 0

**Tentative Ruling:**

8/4/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Debtors' objections to Claim Nos. 2, 3, 13, 16, 29, 32, 33, 35, and 36 are **SUSTAINED**, and each claim is **DISALLOWED** in its entirety. Adjudication of the Debtors' objections to Claim Nos. 5, 7, 11, 12, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 30, and 31 shall be consolidated with the Collection Actions.

**Pleadings Filed and Reviewed:**

- 1) Claim Objections:
  - a) Debtors' Objection to Proof of Claim No. 5 Filed by Villegas Trucking, Inc. [Doc. No. 143]
    - i) Notice of Objection to Claim 5 [Doc. No. 144]
  - b) Debtors' Objection to Proof of Claim No. 7 Filed by Malnove Incorporated of Utah [Doc. No. 146]
    - i) Notice of Objection to Claim 7 [Doc. No. 147]
  - c) Debtors' Objection to Proof of Claim No. 11 Filed by Vita-Pakt Citrus Products Co. [Doc. No. 148]
    - i) Notice of Objection to Claim 11 [Doc. No. 149]
  - d) Debtors' Objection to Proof of Claim No. 12 Filed by Lawrence Foods, Inc. [Doc. No. 150]
    - i) Notice of Objection to Claim 12 [Doc. No. 151]
  - e) Debtors' Objection to Proof of Claim No. 16 Filed by Pearson Sales

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- Company, Inc. [Doc. No. 152]
- i) Notice of Objection to Claim 16 [Doc. No. 153]
  - f) Debtors' Objection to Proof of Claim No. 17 Filed by Brian Muldoon Packaging Services [Doc. No. 154]
    - i) Notice of Objection to Claim 17 [Doc. No. 155]
  - g) Debtors' Objection to Proof of Claim No. 23 Filed by Graphic Packaging International [Doc. No. 157]
    - i) Notice of Objection to Claim 23 [Doc. No. 158]
  - h) Debtors' Objection to Proof of Claim No. 21 Filed by D&W Fine Pack, LLC [Doc. No. 159]
    - i) Notice of Objection to Claim 21 [Doc. No. 160]
  - i) Debtors' Objection to Proof of Claim No. 22 Filed by Lobasso Packaging [Doc. No. 161]
    - i) Notice of Objection to Claim 22 [Doc. No. 162]
  - j) Debtors' Objection to Proof of Claim No. 27 Filed by Ingredion Incorporated [Doc. No. 170]
    - i) Notice of Objection to Claim 27 [Doc. No. 171]
  - k) Debtors' Objection to Proof of Claim No. 29 Filed by Westrock CP, LLC [Doc. No. 172]
    - i) Notice of Objection to Claim 29 [Doc. No. 173]
  - l) Debtors' Objection to Proof of Claim No. 31 Filed by Cargill Incorporated [Doc. No. 174]
    - i) Notice of Objection to Claim 31 [Doc. No. 175]
  - m) Debtors' Objection to Proof of Claim No. 32 Filed by TIC Gums, Inc. [Doc. No. 176]
    - i) Notice of Objection to Claim 32 [Doc. No. 177]
  - n) Debtors' Objection to Proof of Claim No. 30 Filed by Coastal Carriers, LLC [Doc. No. 194]
    - i) Notice of Objection to Claim 30 [Doc. No. 195]
  - o) Debtors' Objection to Proof of Claim No. 28 Filed by Capitol Distribution Company, LLC [Doc. No. 196]
    - i) Notice of Objection to Claim 28 [Doc. No. 197]
  - p) Debtors' Objection to Proof of Claim No. 24 Filed by Stratas Foods, LLC [Doc. No. 198]
    - i) Notice of Objection to Claim [Doc. No. 199]
  - q) Debtors' Objection to Proof of Claim No. 25 Filed by Seneca Foods Corp. [Doc. No. 200]

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- i) Notice of Objection to Claim 25 [Doc. No. 201]
- r) Debtors' Objection to Proof of Claim No. 35 Filed by HFA, Inc. [Doc. No. 207]
  - i) Notice of Objection to Claim 35 [Doc. No. 208]
- s) Debtors' Objection to Proof of Claim No. 36 Filed by Empire Marketing Strategies, Inc. [Doc. No. 209]
  - i) Notice of Objection to Claim 36 [Doc. No. 210]
- t) Debtors' Objection to Proof of Claim No. 26 Filed by Packaging Corporation of America [Doc. No. 211]
  - i) Notice of Objection to Claim 26 [Doc. No. 212]
- u) Debtors' Objection to Proof of Claim No. 13 Filed by McMaster-Carr [Doc. No. 215]
  - i) Notice of Objection to Claim 13 [Doc. No. 216]
- v) Debtors' Objection to Proof of Claim No. 3 Filed by the County of Orange [Doc. No. 217]
  - i) Notice of Objection to Claim 3 [Doc. No. 218]
- w) Debtors' Objection to Proof of Claim No. 2 Filed by Uline, Inc. [Doc. No. 220]
  - i) Notice of Objection to Claim 2 [Doc. No. 221]
- x) Debtors' Objection to Proof of Claim No. 18 Filed by Direct Packaging & Printing, Inc. [Doc. No. 222]
  - i) Notice of Objection to Claim 18 [Doc. No. 223]
- y) Debtors' Objection to Proof of Claim No. 33 Filed by J.H. Rose Logistics, LLC [Doc. No. 229]
  - i) Notice of Objection to Claim 33 [Doc. No. 230]
- 2) Oppositions to the Claim Objections:
  - a) The Official Committee of Creditor's Omnibus Response to Debtors' Objections to Proofs of Claims [Doc. No. 245]
    - i) Supplemental Declaration of Edward Humphrey on Behalf of Cargill Incorporated in Support of the Official Committee of Creditors Omnibus Response to Debtors' Objections to Proofs of Claims [Doc. No. 247]
    - ii) Creditors' Joinder to the Official Committee of Creditor's Omnibus Responses to Debtors' Objections to Proofs of Claims [Doc. No. 301]
  - b) The Official Committee of Creditor's Omnibus Response to Debtors' Objections to Proofs of Claims [Doc. No. 250]
    - i) Creditors' Joinder to the Official Committee of Creditor's Omnibus Responses to Debtors' Objections to Proofs of Claims [Doc. No. 302]

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- 3) Replies in Support of the Claim Objections:
  - a) Debtors' Reply to the Creditors' Committees' Omnibus Response to Debtors' Objections to Proofs of Claims [Doc. No. 248]
    - i) Debtors' Evidentiary Objection to Declaration of Sean J. Lowe Filed in Support of the Official Committee's Omnibus Response to Debtors' Objections to Proof of Claims [Doc. No. 249]
  - b) Debtors' Reply to the Creditors' Committee's Second Omnibus Response to Debtors' Objections to Proofs of Claim Nos. 2, 13, 18, 24, 25, 26, 30, & 35 [Doc. No. 299]
    - i) Debtors' Evidentiary Objection to Declaration of Sean J. Lowe Filed in Support of the Official Committee's Omnibus Response to Debtor's Objections to Proof of Claim Nos. 2, 13, 18, 24, 25, 26, 30, 35, & 36 [Doc. No. 300]
  - c) Debtors' Omnibus Response to Creditors' Joinder to Debtors' Objections to Proofs of Claim [Doc. No. 229]
  - d) Notice of Non-Opposition to Debtors' Objection to Proof of Claim No. 3 Filed by the County of Orange [Doc. No. 294]
  - e) Notice of Non-Opposition to Debtors' Objection to Proof of Claim No. 33 Filed by J.H. Rose, LLC [Doc. No. 295]
- 4) Subchapter V Status Conference:
  - a) Debtors' Chapter 11 Case Status Report [Doc. No. 306]
  - b) Subchapter V Status Report [Doc. No. 313]

## **I. Facts and Summary of Pleadings**

Debtors object to 26 Proofs of Claim (collectively, the "Claim Objections"). Hearings on the Claim Objections were initially scheduled to take place on April 15 and 22, 2020. The Court continued the hearings pending determinations of whether the case would proceed under Subchapter V and whether the Official Committee of Unsecured Creditors (the "Committee") would continue to play a role in the case. Doc. No. 252.

### **A. Background**

#### **1. The Collection Actions**

Michael Bonert ("Michael") and Vivien Bonert ("Vivien," and together with Michael, the "Debtors") filed a voluntary Chapter 11 petition on September 12, 2019 (the "Petition Date"). Prior to the Petition Date, the Debtors operated a pie manufacturing company known as Bonert's Incorporated ("Bonerts"). In 2016,

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Bonerts ceased conducting business after its lender caused its assets to be sold through a federal receivership. Proceeds of the receivership sale were used to pay secured creditors, but were not sufficient to pay unsecured trade creditors, some of whom obtained unopposed judgments against Bonerts.

On August 13 and 14, 2019, Capitol Distribution Company, LLC ("Capitol"), Stratas Foods LLC ("Stratas"), Packaging Corporation of America, and Seneca Foods Corporation filed four collection actions (the "Collection Actions") against the Debtors, Bonerts, and LLCs wholly owned by the Debtors that were affiliates of Bonerts (the "Affiliates"). The Collection Actions allege, *inter alia*, that the Debtors operated the Affiliates and Bonerts as a single enterprise for the purpose of defeating the rights of creditors; that the Debtors misappropriated assets of Bonerts and the Affiliates; and that the Debtors are alter egos of Bonerts and are therefore liable for trade debt incurred by Bonerts.

Litigation of the Collection Actions has been consolidated. Trial of the Collection Actions is set for the week of January 25, 2021.

The Court referred the Collection Actions to mediation, but found that a global mediation involving all creditors asserting alter-ego claims would be more likely to result in settlement. The Court held that the parties were not required to conduct the global mediation until the Debtors' objections to the alter-ego claims had been adjudicated.

2. The Debtors' Election of Treatment Under Subchapter V of Chapter 11 and the Disbandment of the Committee

In the Petition filed on September 12, 2019, Debtors stated that they were not "small business debtors" within the meaning of § 101(51D). Petition at ¶ 13.

On March 3, 2020, Debtors filed an Amended Voluntary Petition [Doc. No. 136] (the "Amended Petition"), which made two changes to the Petition. First, the Debtors stated that they were "small business debtors" as defined in § 101(51D). Amended Petition at ¶ 13. Second, the Debtors elected treatment under the newly-enacted Subchapter V of Chapter 11. *Id.*

On February 20, 2020, the United States Trustee (the "UST") appointed an Official Committee of Unsecured Creditors (the "Committee") pursuant to § 1102(a), comprised of five creditors. Doc. Nos. 128 and 131.

The Court provided the parties an opportunity to object to the Debtors' election of treatment under Subchapter V. Doc. No. 186. The Committee objected to the Subchapter V election. On June 3, 2020, the Court entered a Memorandum of Decision [Doc. No. 268] and accompanying order [Doc. No. 269] authorizing the

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Debtors to proceed under Subchapter V, and requiring the Committee to show cause why it should not be disbanded. The Committee did not oppose disbandment. On July 10, 2020, the Court entered an order disbanding the Committee. Doc. No. 287.

**B. Summary of Papers Filed in Connection with the Claim Objections**

Each of the claims at issue is asserted by a creditor who provided goods or services to Bonerts. Debtors object to each claim on the ground that they are not responsible for the indebtedness, since the goods or services at issue were provided to Bonerts and not the Debtors. In addition, Debtors assert that certain of the claims should be disallowed (1) as untimely, (2) as barred by the statute of limitations, or (3) because the claimant lacks standing to enforce the indebtedness.

Before it was disbanded, the Committee opposed the Claim Objections. Subsequent to the Committee's disbandment, Blakely LLP ("Blakely"), the Committee's proposed counsel, became counsel to certain creditors holding claims to which the Debtors object. Specifically, Blakely now represents the creditors holding the following claims:

<b>Claim No.</b>	<b>Creditor</b>	<b>Claim Amount (all claims are unsecured)</b>
5	Villegas Trucking, Inc.	\$330,498.14
7	Malnove Incorporated of Utah	\$76,367.03
11	Vita-Pakt Citrus Products	\$9,556.60
12	Lawrence Foods, Inc.	\$6,218.00
17	Brian Muldoon Packaging Services	\$13,383.00
18	Direct Packaging and Printing, Inc.	\$3,374.50
21	D&W Fine Pack, LLC	\$169,167.36
22	Lobasso Packaging	\$113,013.31
23	Graphic Packaging Int'l	\$190,688.61
24	Stratas Foods LLC	\$57,830.40
25	Seneca Foods Corporation	\$172,451.93
26	Packaging Corporation of America	\$223,138.47
27	Ingredion Incorporated	\$82,050.35
28	Capitol Distribution Company, LLC	\$818,516.98
30	Coastal Carriers, LLC	\$804,954.44

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31	Cargill, Inc.	\$376,301.88
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The creditors represented by Blakely filed joinders to the opposition submitted by the Committee. The creditors assert that the Debtors are the alter egos of Bonerts and are therefore liable for the amounts claimed. The creditors assert that adjudication of the Claim Objections should be consolidated with the Collection Actions, on the ground that both proceedings involve common issues of law and fact. The creditors contend that if consolidation does not occur, extensive discovery followed by an evidentiary proceeding will be necessary before the Court can determine the alter ego issues posed by the Claim Objections.

Debtors assert that the creditors have failed to submit admissible evidence in support of their alter-ego contentions. Debtors request that to the extent the Court finds that the creditor's alter-ego allegations are sufficient to merit an evidentiary hearing, that the creditors be ordered to intervene in one or more of the Collection Actions, so that the alter-ego issues can be resolved in one trial.

## **II. Findings and Conclusions**

### **A. The Court Will Consider the Committee's Opposition Only to the Extent that it Has Been Joined by a Creditor Whose Claim Is at Issue**

The Court will consider the arguments asserted in the Committee's opposition, but only in connection with those Claim Objections in which the claimholder has joined the opposition. The Court has previously found that it was not appropriate for the Committee to defend the interests of particular creditors in their individual capacity, as opposed to representing the interests of the general unsecured creditor body as a whole:

In *In re Anderson*, 349 B.R. 448 (E.D. Va. 2006), the court examined the extent to which a creditor's committee was entitled to participate in a claim objection proceeding. The *Anderson* court found that in connection with the claim objection proceeding, it was appropriate to permit the committee to participate in discovery regarding the debtor in possession's alleged fraud, a matter common to every creditor's claim. *Id.* at 464. The court took care to emphasize that through such participation, "the Committee did not seek, or purport, to assert the rights or claims of any particular Committee member." *Id.* The court noted that the rights of the individual committee members had been asserted by the claimants' counsel, not the committee's counsel. *Id.*

In contrast to *Anderson*, the Committee's opposition to the Claim



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Objections asserted rights on behalf of particular creditors. That is, the Committee asserted that the claims of particular creditors should be allowed based on the Committee's contention that the Debtors are alter egos of Bonerts. The issue of the Debtors' status as alter egos of Bonerts is not common to all creditors who have filed proofs of claim. The following creditors have filed proofs of claim on account of indebtedness incurred directly by the Debtors:

- 1) Discover Bank (Claim No. 4);
- 2) Southern California Edison Company (Claim No. 8);
- 3) KeyPoint Credit Union (Claim No. 15);
- 4) Arvest Bank (Claim No. 20); and
- 5) JH Rose Logistics, LLC (Claim No. 33).

The Committee's advocacy on behalf of specific alter ego creditors was not in the interests of the creditor body as a whole, because allowance of the claims of the alter ego creditors would reduce the recovery of creditors asserting claims directly against the Debtors. Therefore, in electing to oppose the Claim Objections, the Committee was not "fulfilling its primary responsibility to represent the interests" of *all* of its members. *Id.* at 465. *See also In re Drexel Burnham Lambert Grp., Inc.*, 138 B.R. 717, 722 (Bankr. S.D.N.Y.), *aff'd*, 140 B.R. 347 (S.D.N.Y. 1992) ("Counsel for the ... committee do not represent any individual creditor's interest in [a] case; they were retained to represent the entire ... class. Therefore, counsel for the creditors' committee do not owe a duty to [one creditor] to maximize its interest at the expense of the remaining creditors in the represented class.").

Memorandum of Decision Authorizing Debtors to Proceed Under Subchapter V of Chapter 11 [Doc. No. 268] at 5.

In view of this finding and given the Committee's disbandment, the Court will not consider the Committee's opposition in connection with those Claim Objections in which the claimholder has not joined the opposition. The Court will deem such Claim Objections to be unopposed.

**B. The Debtors' Objections to Claim Nos. 2, 3, 13, 16, 29, 32, 33, 35, and 36 Are Sustained and Each Claim is Disallowed in Its Entirety**

Under Bankruptcy Rule 3001(f), a proof of claim executed and filed in accordance

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with the Bankruptcy Rules constitutes prima facie evidence of the validity and amount of the claim. To overcome the presumption of validity created by a timely-filed proof of claim, an objecting party must do one of the following: (1) object based on legal grounds and provide a memorandum of points and authorities setting forth the legal basis for the objection; or (2) object based on a factual ground and provide sufficient evidence (usually in the form of declarations under penalty of perjury) to create triable issues of fact. *Durkin v. Benedor Corp. (In re G.I. Indus., Inc.)*, 204 F.3d 1276, 1280 (9th Cir. BAP 2000); *United States v. Offord Finance, Inc. (In re Medina)*, 205 B.R. 216, 222 (9th Cir. BAP 1996); *Hemingway Transport, Inc. v. Kahn (In re Hemingway Transport, Inc.)*, 993 F.2d 915, 925 (1st Cir. 1993). Upon objection, a proof of claim provides "some evidence as to its validity and amount" and is "strong enough to carry over a mere formal objection without more." *See Lundell v. Anchor Constr. Spec., Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000) (citing *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991)). An objecting party bears the burden and must "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Holm*, 931 F.2d at 623. When the objector has shown enough evidence to negate one or more facts in the proof of claim, the burden shifts back to the claimant to prove the validity of the claim by a preponderance of evidence. *See Lundell*, 223 F.3d at 1039 (citation omitted).

Section 502 requires the Court to disallow a claim that "is unenforceable against the debtor and the property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured."

Claim Nos. 2, 3, 13, 16, 29, 32, 33, 35, and 36 arise from goods and services that the claimants provided to Bonerts, not from goods and services that the claimants provided to the Debtors. With respect to these claims, there is no admissible evidence establishing that the Debtors should be held liable for the amounts claimed on an alter-ego basis. As such, the claims are not enforceable against the Debtors. The Claim Objections are **SUSTAINED** and each of the claims is **DISALLOWED** in its entirety.

Claims 35 and 36 were filed subsequent to the claims bar date, notwithstanding the fact that the claimants received notice of the bar date. In addition to being disallowed as unenforceable against the Debtors, Claims 35 and 36 are also disallowed as untimely.

As an additional ground for the disallowance of Claim 33, the Debtors argue that Claim 33 appears to be based upon an alleged breach of a Settlement Agreement in which the Debtors agreed to pay the claimant, J.H. Rose Logistics, Inc. ("Logistics")

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the sum of \$40,000 over a period of 48 months. Debtors contend that they are not liable for the claim because Logistics and its counsel breached the Settlement Agreement's confidentiality provision by giving confidential information and documents to Blakely.

The Court finds that the Debtors are not liable for Claim 33 because Logistics breached the Settlement Agreement. Debtors' counsel testifies that materials subject to the Settlement Agreement's confidentiality provision were later filed in litigation prosecuted by creditors represented by Blakely, even though Debtors' counsel never gave the materials to anyone. This uncontroverted testimony is sufficient to establish that Logistics breached the Settlement Agreement's confidentiality provision. As a result, to the extent that Claim 33 is based upon the Settlement Agreement, it is not enforceable against the Debtors. The Court's findings regarding the breach of the Settlement Agreement are made for purposes of the instant claim objection only, and shall not be accorded preclusive effect in any future litigation brought by the Debtors against Logistics for damages based upon a breach of the Settlement Agreement.

**C. Adjudication of the Objections to Claim Nos. 5, 7, 11, 12, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 30, and 31 Shall be Consolidated with the Collection Actions**

The Court finds that the creditors have introduced sufficient evidence to establish the *prima facie* validity of their claims, and that an adversary proceeding is necessary to adjudicate the validity of the claims in view of the complexity of the issues. The Debtors' assertion that the claimants have not introduced sufficient evidence in support of their alter-ego contentions to defeat the Claim Objections is without merit. Creditors have alleged that the Debtors owned and controlled Bonerts; that Bonerts was undercapitalized; that Bonerts disregarded corporate formalities; and that the Debtors improperly transferred funds from Bonerts to themselves to contravene creditors' right to payment. In support of these allegations, creditors have submitted several hundred pages of documents, including excerpts from depositions of Michael, which creditors assert show improper transfers between Bonerts, other LLCs controlled by the Debtors, and the Debtors. Although Debtors dispute creditors' allegations and contend that the documents do not provide evidence of any impropriety, the Court finds that the showing made by creditors is sufficient to warrant litigation of the claims under the more formal procedures afforded by an adversary proceeding. It is not appropriate for the Court to prejudge the outcome of that adversary proceeding by ruling upon the admissibility or credibility of the evidence creditors have presented.

Debtors object to Claim 30, asserted by Coastal Carriers, LLC, on the ground that

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the creditor lacks standing to enforce the indebtedness. Debtors state that the debt is owed to Coastal Carriers, *Inc.*, not Coastal Carriers, *LLC*.

Coastal Carriers, LLC ("Coastal LLC") has submitted sufficient evidence that it has standing to enforce indebtedness originally incurred by Coastal Carriers, Inc. ("Coastal Inc.") Coastal LLC supplies a declaration from John Harrell, who has been employed by Coastal LLC and Coastal Inc. as a controller since 2004. Harrell's responsibilities include monitoring debt collection actions commenced by Coastal LLC and Coastal Inc. Harrell testifies that in November 2016, Coastal Inc. reorganized as Coastal LLC, and as part of that reorganization, Coastal Inc.'s claims were assigned to Coastal LLC. There is no merit to the Debtors' contention that Harrell lacks personal knowledge to testify regarding the assignment of Coastal Inc.'s claims to Coastal LLC, or that Harrell's declaration does not establish Coastal LLC's standing to enforce the indebtedness.

Debtors make the same objection to Claim 28, asserted by Capitol Distribution Co., LLC ("Capitol Distribution"). Debtors assert that Capitol Distribution lacks standing to enforce indebtedness which Debtors assert is owed to Capitol Food Company ("Capitol Food"), not Capitol Distribution.

Capitol Distribution has submitted sufficient evidence showing that it has standing to enforce the indebtedness. Capitol Distribution supplies a declaration from Doug Jensen, who is employed as a sales manager and who oversees collection activities for Capitol Distribution. Jensen's declaration establishes that "Capitol Food" is the d/b/a of Capitol Distribution.

Debtors object to Claim 5, asserted by Villegas Trucking, Inc. ("Villegas"), on the ground that it is barred by the statute of limitations arising under the Interstate Commerce Act, 49 U.S.C. § 14705(a). The Debtors' objection is overruled. The Interstate Commerce Act governs only goods shipped between different states. Villegas' claim arises in connection with goods shipped only within the state of California, so the Interstate Commerce Act does not apply. Debtors make the same objection to Claim 30, asserted by Coastal LLC. That objection is overruled for the same reason.

Both the Debtors and the creditors support consolidating the adjudication of the Claim objections with the adjudication of the Collection Actions. Debtors' position is that creditors should be ordered to intervene in the Collection Actions; creditors assert that litigation of the Collection Actions should be consolidated with the Claim Objections under Civil Rule 42.

Civil Rule 42 authorizes the Court to consolidate actions involving "a common question of law or fact." In determining whether to consolidate proceedings, "a court

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weighs the interest of judicial convenience against the potential for delay, confusion, and prejudice caused by consolidation.” *Sw. Marine, Inc. v. Triple A Mach. Shop, Inc.*, 720 F. Supp. 805, 806–07 (N.D. Cal. 1989). “The party seeking consolidation bears the burden of demonstrating that convenience and judicial economy would result from consolidation. . . . A court may deny consolidation where two cases are at different stages of preparedness for trial.” *Snyder v. Nationstar Mortgage LLC*, No. 15-CV-03049-JSC, 2016 WL 3519181, at \*2 (N.D. Cal. June 28, 2016).

The Claim Objections and the Collection Actions involve common issues of law or fact. The Debtors and Bonerts were both involved in the transactions giving rise to the claims. Plaintiffs in the Collection Actions and creditors asserting claims both contend that the Debtors are liable for Bonert’s obligations under an alter-ego theory.

The Court will consolidate the adjudication of the Collection Actions and the Claim Objections pursuant to Civil Rule 42, so that the common issues of law and fact can be determined in a single proceeding. The procedures to effectuate the consolidation shall be as follows:

- 1) In the interests of judicial efficiency, Adv. No. 2:19-ap-01378-ER, *Coastal Carriers LLC v. Michael and Vivien Bonert*, shall be designated as the lead case, in which all documents shall be filed.
- 2) To ensure uniformity and a clear record, and to streamline discovery, by no later than **August 19, 2020**, each creditor shall file in the lead case a complaint setting forth the allegations contained in each proof of claim. The form of each complaint shall be based upon the complaints already on file in the Collection Actions. By no later than **September 2, 2020**, the Debtors shall answer each complaint.
- 3) Because the Court has found that the proofs of claims are *prima facie* valid in connection with this hearing, the Court will deem each complaint to state a claim upon which relief can be granted, and will not entertain Rule 12(b)(6) motions in connection with the complaints.
- 4) The Mediation Status Conference in the Collection Actions, set for September 15, 2020, shall remain in calendar. In view of the complexity of the litigation, the Court will consider at the Mediation Status Conference whether to extend the previously ordered litigation deadlines.
- 5) Notwithstanding any provision to the contrary in General Order 95-01, the mediation may take place via video-conference rather than in person. The Debtors state that they are their counsel are in COVID-19 high risk groups.
- 6) None of the Claim Objections dispute the accuracy of the amounts of the

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indebtedness alleged. Therefore, adjudication of the Claim Objections shall be limited to the alter-ego issues.

**D. Subchapter V Status Conference**

The Court addresses the following issues raised by the Subchapter V Status Reports filed by the Debtors.

First, the Debtors are not required to serve the Plan on the several hundred creditors scheduled as having disputed claims who did not file a proof of claim.

Second, the Debtors are not required to submit a Disclosure Statement separate from the Plan. The Plan contains information adequate to enable creditors to determine whether to vote for or against the Plan.

Third, the Debtors shall not be required to seek confirmation of the Plan until after the Court has adjudicated the Collection Actions and the Claim Objections. The outcome of these proceedings will have a material outcome on the distributions to be made under the Plan.

**III. Conclusion**

Based upon the foregoing, the Debtors' objections to Claim Nos. 2, 3, 13, 16, 29, 32, 33, 35, and 36 are **SUSTAINED**, and each claim is **DISALLOWED** in its entirety. Adjudication of the Debtors' objections to Claim Nos. 5, 7, 11, 12, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 30, and 31 shall be consolidated with the Collection Actions.

Within seven days of the hearing, the Debtors shall submit orders in connection with the claims that have been disallowed. The Court will prepare and enter an order on the consolidation of the Claim Objections and the Collection Actions.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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**Chapter 11**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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Los Angeles  
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**Chapter 11**

**#16.00** Hearing  
RE: [146] Motion RE: Objection to Claim Number 7 by Claimant Malnove  
Incorporated of Utah. Debtors' Objection to Proof of Claim No. 7

fr. 4-15-20

fr. 7-1-2020

Docket 146

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

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

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley



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**Chapter 11**

**#17.00** Hearing  
RE: [152] Motion RE: Objection to Claim Number 16 by Claimant Pearson Sales Company, Inc.. Debtors' Objection to Proof of Claim No. 16

fr. 4-15-20

fr. 7-1-2020

Docket 152

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#18.00** Hearing  
RE: [150] Motion RE: Objection to Claim Number 12 by Claimant Lawrence Foods, Inc.. Debtors' Objection to Proof of Claim No. 12

fr. 4-15-20

fr. 7-1-2020

Docket 150

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**Chapter 11**

**#19.00** Hearing  
RE: [148] Motion RE: Objection to Claim Number 11 by Claimant Vita-Pakt Citrus Products Co.. Debtors' Objection to Proof of Claim No. 11

fr. 4-15-20

fr. 7-1-2020

Docket 148

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**Chapter 11**

**#20.00** Hearing  
RE: [170] Motion RE: Objection to Claim Number 27 by Claimant Ingredient Incorporated. Debtors' Objection to Proof of Claim No. 27

fr. 4-15-20

fr. 7-1-2020

Docket 170

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**Chapter 11**

**#21.00** Hearing  
RE: [174] Motion RE: Objection to Claim Number 31 by Claimant Cargill  
Incorporated. Debtors' Objection to Proof of Claim No. 31

fr. 4-15-20

fr. 7-1-2020

Docket 174

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

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

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**#22.00** Hearing  
RE: [172] Motion RE: Objection to Claim Number 29 by Claimant Westrock CP,  
LLC. Debtors' Objection to Proof of Claim No. 29

fr. 4-15-20

fr. 7-1-2020

Docket 172

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**Chapter 11**

**#23.00** Hearing  
RE: [161] Motion RE: Objection to Claim Number 22 by Claimant Lobasso  
Packaging. Debtors' Objection to Proof of Claim No. 22

fr. 4-15-20

fr. 7-1-2020

Docket 161

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

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

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**Chapter 11**

**#24.00** Hearing  
RE: [159] Motion RE: Objection to Claim Number 21 by Claimant D&W Fine Pack LLC. Debtors' Objection to Proof of Claim No. 21

fr. 4-15-20

fr. 7-1-2020

Docket 159

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley



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**Chapter 11**

**#25.00** Hearing  
RE: [154] Motion RE: Objection to Claim Number 17 by Claimant Brian Muldoon  
Packaging Services. Debtors' Objection to Proof of Claim No. 17

fr. 4-15-20

fr. 7-1-2020

Docket 154

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#26.00** Hearing  
RE: [157] Motion RE: Objection to Claim Number 23 by Claimant Graphic  
Packaging International. Debtors' Objection to Proof of Claim No. 23

fr. 4-15-20

fr. 7-1-2020

Docket 157

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#27.00** Hearing  
RE: [176] Motion RE: Objection to Claim Number 32 by Claimant TIC Gums, Inc..  
Debtors' Objection to Proof of Claim No. 32

fr. 4-15-20

fr. 7-1-2020

Docket 176

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#28.00** Hearing  
RE: [143] Motion RE: Objection to Claim Number 5 by Claimant Villegas Trucking, Inc.; Declaration of Alan W. Forsley and Michael Bonert in Support with proof of service

fr. 4-15-20

fr. 7-1-2020

Docket 143

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#29.00** Hearing  
RE: [198] Motion RE: Objection to Claim Number 24 by Claimant Stratas Foods  
LLC. Debtors' Objection to Proof of Claim No. 24

fr. 4-22-20

fr. 7-1-2020

Docket 198

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:19-20836 Michael Bonert and Vivien Bonert**

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**#30.00** Hearing  
RE: [196] Motion RE: Objection to Claim Number 28 by Claimant Capitol  
Distribution Company, LLC. Debtors' Objection to Proof of Claim No. 28

fr. 4-22-20

fr. 7-1-2020

Docket 196

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Chapter 11**

**#31.00** Hearing  
RE: [211] Motion RE: Objection to Claim Number 26 by Claimant Packaging Corporation of America. Debtors' Objection to Proof of Claim No. 26

fr. 4-22-20

fr. 7-1-2020

Docket 211

**Tentative Ruling:**

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See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

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Central District of California  
Los Angeles  
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**Chapter 11**

**#32.00** Hearing  
RE: [215] Motion RE: Objection to Claim Number 13 by Claimant McMaster-Carr  
Supply Co. Debtors' Objection to Proof of Claim No. 13

fr. 4-22-20

fr. 7-1-2020

Docket 215

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
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**Chapter 11**

**#33.00** Hearing  
RE: [209] Motion RE: Objection to Claim Number 36 by Claimant Empire  
Marketing Strategies, Inc.. Debtors' Objection to Proof of Claim No. 36

fr. 4-22-20

fr. 7-1-2020

Docket 209

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#34.00** Hearing  
RE: [207] Motion RE: Objection to Claim Number 35 by Claimant HFA, Inc..  
Debtors' Objection to Proof of Claim No. 35

fr. 4-22-20

fr. 7-1-2020

Docket 207

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Chapter 11**

**#35.00** Hearing  
RE: [200] Motion RE: Objection to Claim Number 25 by Claimant Seneca Foods Corporation. Debtors' Objection to Proof of Claim No. 25

fr. 4-22-20

fr. 7-1-2020

Docket 200

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

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**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#36.00** Hearing  
RE: [222] Motion RE: Objection to Claim Number 18 by Claimant Direct  
Packaging and Printing, Inc.. Debtors' Objection to Proof of Claim No. 18

fr. 4-22-20

fr. 7-1-2020

Docket 222

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Chapter 11**

**#37.00** Hearing  
RE: [229] Motion RE: Objection to Claim Number 33 by Claimant J.H. Rose  
Logistics, LLC. Debtors' Objection to Proof of Claim No. 33

fr. 4-22-20

fr. 7-1-2020

Docket 229

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, August 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#38.00** Hearing  
RE: [220] Motion RE: Objection to Claim Number 2 by Claimant Uline, Inc..  
Debtors' Objection to Proof of Claim No. 2

fr. 4-22-20

fr. 7-1-2020

Docket 220

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, August 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#39.00** Hearing  
RE: [217] Motion RE: Objection to Claim Number 3 by Claimant County of Orange. Debtors' Objection to Proof of Claim No. 3

fr. 4-22-20

fr. 7-1-2020

Docket 217

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, August 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert and Vivien Bonert**

**Chapter 11**

**#40.00** Hearing  
RE: [194] Motion RE: Objection to Claim Number 30 by Claimant Coastal Carriers, LLC. Debtors' Objection to Proof of Claim No. 30

fr. 4-22-20

fr. 7-1-2020

Docket 194

**Tentative Ruling:**

8/4/2020

See Cal. No. 15, above, incorporated in full by reference.

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

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, August 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15501 Chineseinvestors.com, Inc.**

**Chapter 11**

**#41.00** HearingRE: [47] Motion to Reject Lease or Executory Contract Notice of Motion and Motion Pursuant to 11 U.S.C. Section 365(a) of Lease Rejections and Abandonment of Personal Property; and Declaration in Support Thereof, with Proof of Service

Docket 47

**Tentative Ruling:**

8/4/2020

**Service Issue:** Debtor failed to serve Work Better (landlord of the New York Premise) to the attention of "an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process," which is not in compliance with FRBP 7004(b)(3).

For the reasons set forth below, the Motion is GRANTED-IN-PART and the Debtor is authorized to reject the Leases as of July 8, 2020, subject to the Debtor filing a declaration confirming that Work Better received actual notice of the Motion or demonstrating that its service complies with Rule 7004(b)(3) by no later than **August 7, 2020**. Furthermore, the Debtor is authorized to abandon the personal property discussed in the Motion.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion Pursuant to 11 U.S.C. § 365(a) of Lease Rejections and Abandonment of Personal Property Left at the Premises [Doc. No. 47] (the "Motion")
- 2) Landlord K & G-37 Ave. Realty LLC's Response to Debtor's Motion Pursuant to 11 U.S.C. § 365(a) of Lease Rejections and Abandonment of Personal Property [Doc. No. 95] (the "Response")
- 3) Debtor's Reply to the Landlord K & G-37 Realty LLC's Response to Debtor's Motion Pursuant to 11 U.S.C. § 365(a) of Lease Rejections and Abandonment of Personal Property [Doc. No. 110] (the "Reply")

**I. Facts and Summary of Pleadings**

ChineseInvestors.com, Inc. (the "Debtor") filed a voluntary chapter 11 petition on

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CONT... Chineseinvestors.com, Inc.

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June 19, 2020 (the “Petition Date”). The Debtor is a financial information web portal that offers news and information regarding financial markets in Chinese.

Prior to the Petition Date, the Debtor maintained several business offices in leased nonresidential space, which includes locations at The Renaissance Tower, 136-33 37th Ave., Unit 9D, Flushing, NY 11354 (the “Flushing Premise”) and Work Better, 40 Wall Street, 28th Floor, Suite F, New York, NY 10005 (the “New York Premise,” collectively with the Flushing Premise, the “Leased Premises”). Twenty days following the Petition Date, on July 8, 2020, the Debtor filed a motion seeking authorization, *inter alia*, to (a) reject the unexpired lease agreements on the Leased Premises *nunc pro tunc* to the Petition Date (the “Leases”) and (b) abandon certain personal property left within the premises (the “Motion”).

**The Motion**

The Debtor makes the following principal points, arguments, and representations in support of the Motion:

To further its objective of downsizing operations, the Debtor vacated the Leased Premises prior to the Petition Date. The Debtor expects that by rejecting the Leases, the estate stands to save over \$10,000 per month in rental dues and costs. Pursuant to § 365(a), the Motion seeks to reject the unexpired Leases, “including any guaranties thereof and any amendments, modifications, or subleases thereto.” Motion at 4. Based on the Debtor’s business judgment, assuming the Leases provides no benefit to creditors, and the rental costs imposed by the Leases constitute a waste of estate assets. Any benefit realized by retaining or subletting the Leases is marginal and surpassed by the associated administrative expense. Further, although it removed most items of meaningful value, the Debtor left certain personal property at the premises. Pursuant to § 554(a), the Debtor should be permitted to abandon that property because it is “burdensome to the estate or...of inconsequential value and benefit to the estate.”

Additionally, the Court should exercise its discretion to approve the rejection of the Leases retroactively to the Petition Date, thereby circumventing rental dues and other costs. In certain cases, courts have granted *nunc pro tunc* relief where a debtor vacates the property pre-petition and expeditiously files the rejection motion. *See, e.g., In re Amber’s Stores*, 193 B.R. 819 (Bankr. N.D. Tex. 1996). *Nunc pro tunc* relief should ordered here as the Debtor both moved out of the Leased Premises and informed the landlords of its intention to vacate before the commencement of the case. The retroactive rejection of the Leases will not prejudice the landlords because Debtor’s early departure permits them to locate a new tenant. As the Debtor delivered

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**Chapter 11**

prior notice of abandonment, the landlords should not be allowed to offset any outstanding amounts against Debtor's rental deposits, but instead file proofs of claims based on their efforts to mitigate losses.

**The Response**

On July 22, 2020, K & G-37 Ave Realty, LLC ("K&G") submitted a response to the Debtor's Motion (the "Response"). In short, K&G does not object to the rejection of the lease or the abandonment request, but it does oppose the extraordinary relief sought by the Debtor. K&G makes the following principal points, arguments, and representations by way of the Response:

On or about March 1, 2018, the Debtor and K&G entered into a lease agreement for the Flushing Premise (the "Flushing Lease"). The term of the Flushing Lease was 36 months commencing on March 1, 2018 and ending on February 28, 2021. *See* Section IV of the Flushing Lease. To ensure its performance on the Flushing Lease, the Debtor deposited the sum of \$23,829.69 with K&G (the "Deposit"). *See* Section XXVIII of the Flushing Lease. On March 1, 2018, the Debtor's president executed a personal guaranty of any amounts due under the Flushing Lease (the "Guaranty"). *See* Response, Ex. 1. Currently, the Debtor is responsible for paying \$7,426.30 per month in rent and \$943.23 per month in maintenance charges. The Debtor has failed to tender any amounts due for the months of April, May, June, or July, and currently owes approximately \$25,108.59 for pre-petition charges and has accrued debts of approximately \$8,369.53 post-petition. An additional \$8,369.53 will be due on August 1, 2020, bringing total post-petition rent and maintenance charges to \$16,739.06. Furthermore, pursuant to a rent concession clause in Section IV of the Flushing Lease, the Debtor will owe an additional \$1,750.02 at the time the lease is rejected. Therefore, K&G's rejection damages will easily surpass the Deposit amount.

K&G contends that the Court should reject the following extraordinary relief requested by the Debtor. First, the Debtor has failed to provide any legal authority supporting the cancellation of Guaranty. The Guaranty is an agreement that imposes a financial obligation against a non-debtor party and is independent of the Flushing Lease.

Second, the Debtor fails to satisfy the factors enumerated by the Ninth Circuit in *In re Meatco Provisions, LLC*, 2013 Bankr. LEXIS 2850 (Bankr. C.D. Cal. July 16, 2013) with respect to the request for retroactive rejection of the Flushing Lease. As set forth in *In re Meatco*, retroactive rejection of a lease is appropriate where (1) the debtor filed the rejection motion immediately; (2) the debtor set the rejection motion for a hearing without delay; (3) the leased premises were vacated; and (4) the conduct

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and motivations of the landlord weighs in favor of the debtor. Here, the Debtor delayed for nearly a month in filing the Motion, and then failed to set it on expedited basis. Instead, the Debtor waited to file the Motion until July, and will not be heard until August 5, 2020. The Debtor's filing timeline has prejudiced K&G because rent and maintenance expenses have not been paid in months. Critically, while the Debtor has left the Flushing Premise, it has neglected to surrender possession as the office keys have not been returned to K&G. The cases where courts have granted retroactive rejection of leases are inapposite to the situation at hand. *See, e.g., In re O'Neil Theatres, Inc.*, 257 BR. 806 (Bankr. E.D. La. 2000); *Duke Realty Ltd. P'ship v. N. Metro Mill Work Distribs. (In re Manis Lumber Co.)*, 430 B.R. 269 (Bank. N.D. Ga. 2009). Therefore, Debtor's extraordinary relief is not warranted here. Alternatively, the Debtor should only be allowed to reject the Flushing Lease *nunc pro tunc* to the filing date of the Motion.

Finally, with respect to the setoff against the Deposit, § 365(h), the sole legal authority cited in support of the Debtor's position, is inapplicable because that section only applies in cases where the debtor is the lessor, but here, the Debtor is the lessee. Moreover, courts in this jurisdiction have previously held that a rental deposit can be applied against § 502(b)(6) claims. *See, e.g., In re Connectix Corp.* 372 B.R. 488 (Bankr. N.D. Cal. 2007). K&G may utilize the Deposit to satisfy any pre-petition debts without prior court authorization, but in the alternative, K&G requests permission to do so.

**The Reply**

Below is a summary of the principal points, arguments, and representations set forth in the Debtor's Reply [Doc. No. 110] filed on July 29, 2020:

The presence of additional critical facts discussed in the supplemental declaration of Melissa Armstrong [Doc. No. 110] ("Armstrong Supp. Decl."), the Debtor's general in-house counsel, supports *nunc pro tunc* relief requested. Due to the impact of COVID-19 in New York, state and local authorities shut down all businesses on March 22, 2020, thereby making use of the Flushing Premise "nearly impossible." Reply at 2. The Debtor's decision to vacate the premises on or about June 5, 2020 was a direct result of the state's stay at home orders. The decision to vacate was also based on the Debtor's concern for the safety of its employees as the Flushing Premise is situated near medical offices, where the testing of COVID-19 was regularly being performed at the time. Armstrong Supp. Decl., ¶ 8. Accordingly, the Debtor was "legally" prohibited from accessing the Flushing Premise. *Id.* For that reason, the

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Debtor hired a third-party service to remove valuable personal property and clean the premises. *Id.*

On or around June 5, 2020, the Debtor notified K&G of its intention to vacate the Flushing Premise. *Id.* at ¶ 8. K&G is required to mitigate its purported losses caused by the stay at home order in New York. On June 22, 2020, Flushing entered into Phase II of the state's reopening plan, which allowed business offices to operate in a limited capacity. Given that the Debtor has not heard from K&G about a Phase II reopening of the Flushing Premise, it assumes that K&G has not allowed tenants to conduct business activities at the location. Armstrong Supp. Decl., ¶ 7. Therefore, the Debtor's *nunc pro tunc* relief should be granted and K&G must not satisfy its outstanding claims against the Deposit.

Aside from K&G, no other party has filed a response to the Motion.

## **II. Findings and Conclusions**

### **A. The Proof of Service Does Not Reflect Proper Service on Work Better**

Schedule D indicates that Work Better is the Debtor's lessor on the New York Premise. Bankruptcy Rules 6006(a), 9014(b), and 7004(b)(3) require the Motion to be served on Work Better "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b)(3). The proof of service does not reflect service on Work Better as required by 7004(b)(3) because service is not directed to the attention of an officer, a managing or general agent, or any other proper representative.

By no later than **August 7, 2020**, the Debtor is directed to file a declaration confirming that Work Better received actual notice of the Motion or demonstrating that its service complies with Rule 7004(b)(3).

### **B. Lease Rejection**

Under 11 U.S.C. § 365(a), a debtor in possession "may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). "A bankruptcy court's hearing on a motion to reject is a summary proceeding that involves only a cursory review of a [debtor's] decision to reject the contract." *Durkin v. Benedor Corp. (In re G.I Indus.)*, 204 F.3d 1276, 1282 (9th Cir. 2000). "Specifically, a bankruptcy court applies the business judgment rule to evaluate a [debtor's] rejection decision." *Id.* A court should approve the rejection decision unless it finds that the debtor's conclusion that rejection would be advantageous is so

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"manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice." *Agarwal v. Pomona Valley Med. Grp., Inc. (In re Pomona Valley Med. Grp., Inc.)*, 476 F.3d 665, 670 (9th Cir. 2007) (internal citation omitted).

Here, the Debtor claims that it moved out of the Leased Premises in an attempt to downsize its business operations and the estate has no further need to maintain the lease agreements. *See* Armstrong Decl. [Doc. No. 47], ¶ 4. The Debtor asserts that by rejecting the Leases the estate will avoid over \$20,000 in anticipated rental expenses and maintenance costs. The costs associated with the Leases will continue to consume estate resources, unless the Motion is approved. Accordingly, the Court approves the Debtor's sound business judgment to reject the Leases as doing so is in the best interest of the estate. **[Note 1]**

Next, the Debtor requests that the Court deem the rejection of the Leases *nunc pro tunc* to the Petition Date. In support, the Debtor cites *Pacific Shores Development, LLC v. At Home Corporation (In re At Home Corporation)*, 392 F.3d 1064, 1071 (9th Cir. 2004). K&G objects to this extraordinary relief because, *inter alia*, the Debtor did not immediately file the Motion and set it for a hearing; the Debtor has not surrendered possession by failing to return the keys to the premises; and K&G has been prejudiced in its inability to re-let the premises. Accordingly, the Debtor argues for a retroactive rejection date of June 18, 2020, while K&G argues for rejection as of the date of entry of the order on the Motion.

In *In re At Home Corporation*, the Ninth Circuit identified four non-exclusive factors to be applied by a bankruptcy court in ascertaining whether "exceptional circumstances" warranted retroactive rejection of a lease:

- (1) the debtor's immediate filing of a motion to reject the lease;
- (2) a debtor's prompt action in setting that motion for hearing;
- (3) the vacancy of the leased premises; and
- (4) the landlord's conduct and motivation in opposing a retroactive rejection of the lease.

392 F.3d at 1072. "There is nothing in either *At Home* or the line of authority relied upon by the Ninth Circuit in adopting its retroactive lease rejection standard that expressly limits the bankruptcy court's equitable authority to establish a retroactive rejection date no earlier than the motion filing date. *In re New Meatco Provisions, LLC*, No. 2:13-BK-22155-PC, 2013 WL 3760129, at \*4 (Bankr. C.D. Cal. July 16, 2013), *aff'd*, No. BAP CC-13-1319, 2014 WL 2446314 (B.A.P. 9th Cir. May 30,

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2014).

**Chapter 11**

In consideration of the first factor, the Debtor filed the rejection motion on July 8, 2020, twenty days after the Petition Date. The Debtor could have submitted the Motion with a collection of first day motions heard on an emergency basis on June 30, 2020. The Debtor's decision to briefly delay the filing is unexplained. Relatedly, consideration of the Motion was not sought on an expedited basis and a hearing is set for August 5, 2020, forty-eight days after the Petition Date. The court in *In re Meatco* found "no appreciable delay," where a debtor set a rejection motion on regular notice and secured the rejection order within thirty-five days. To the extent that the Debtor was capable of immediately filing and serving the rejection motion with other first day motions, this factor favors K&G's position. However, the fact that the earliest Debtor will obtain a rejection order is August 5, 2020 presents "no appreciable delay," which is slightly longer than the time it took the debtor to secure a rejection order in *In re Meatco*. See No. 2:13-BK-22155-PC, 2013 WL 3760129, at \*5. There is no evidence on record that Debtor calculatngly sought to postpone rejection by failing to move on an emergency basis. At the outset of this case, the Debtor had already incurred the expense to vacate the Flushing Premise, remove valuable personal property, and leave the leased space in a clean condition. See Armstrong Supp. Decl., ¶ 8. This factor weighs in Debtor's favor. Third, the parties do not dispute that the Debtor vacated the Flushing Premise pre-petition on or about June 5, 2020, and that it provided notice to K&G of its intention to do so during that time. The fact that Debtor has not returned K&G keys of the leased spaced goes to the possession of the Flushing Premise. Relevantly, the Ninth Circuit has stated that the "retroactive date of rejection need not be on or after the date on which the landlord regains possession." *In re At Home Corporation*, 392 F.3d at 1075 (affirming the retroactive rejection of a lease to a date prior to the repossession of the premises by the landlord). Therefore, the Court places limited persuasive value on K&G's argument; this factor favors the Debtor. Finally, K&G argues that retroactive rejection should be denied as it has been prevented from re-letting the premises. However, Debtor assumes that K&G has not made the facilities available for business activities as it has not made any general announcements about the Phase II reopening. The Court accepts K&G's motivations in opposing retroactive rejection and finds the final factor in its favor.

Having weighed the abovementioned factors, the Court determines that it is appropriate to deem the Leases rejected as of July 8, 2020, the filing date of the rejection motion. In reaching this conclusion, the Court principally notes that the

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Debtor did not immediately file the Motion, but that it did expeditiously vacate the Flushing Premise weeks prior to the Petition Date.

**C. Abandonment of Personal Property**

Under 11 U.S.C. § 554(a), "after noticed and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." Based on the Debtor's representations, as well as the lack of opposition from any party in interest, the Court finds that the personal property in question is of inconsequential value and benefit to the estate. Therefore, the Debtor is authorized to abandon the personal property discussed in the Motion.

**D. The Deposit**

The Debtor's request concerning the Deposit is inadequately briefed by both parties, and, in any case, the issue lies outside the scope of a lease rejection proceeding. *See Durkin v. Bendor Corp. (In re G.I Indus.)*, 204 F.3d at 1282 ("A bankruptcy court's hearing on a motion to reject is a summary proceeding that involves only a cursory review of a [debtor's] decision to reject the contract."). K&G is instructed to file a proof of claim, indicating the total amount claimed against the Debtor under § 502(b)(6). K&G may submit a motion supporting its purported right to apply its claims against the Deposit. No action shall be taken against the Deposit absent further order of the Court.

**III. Conclusion**

Based upon the foregoing, the Motion is GRANTED-IN-PART and the Debtor is authorized to reject the Leases as of July 8, 2020, subject to the Debtor filing a declaration confirming that Work Better received actual notice of the Motion or demonstrating that its service on the complies with Rule 7004(b)(3). Furthermore, the Debtor is authorized to abandon the personal property discussed in the Motion.

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will



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**Chapter 11**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Nothing in this Motion shall affect the validity of the personal Guaranty of the Leases executed by the Debtor's president.

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

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

**United States Bankruptcy Court  
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**Wednesday, August 5, 2020**

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11:00 AM

**2:18-24265 Neilla M Cenci**

**Chapter 7**

**#100.00** Hearing re [27] *Creditor Ball C M, Incs Notice Of Objection To Claim Of Homestead Exemption And Objection To Homestead Exemption Claim*

fr. 5-8-19; 9-18-19; 3-18-20; 5-6-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-16-20 AT 11:00 A.M.**

**Tentative Ruling:**

5/6/2019

For the reasons set forth below, CONTINUE HEARING to September 18, 2019 at 11:00 a.m.

Creditor Ball C M, Inc. ("Movant") seeks an order disallowing the Debtor's \$175,000 homestead exemption pursuant to § 522(o) [Doc. No. 27] (the "Objection to Homestead Exemption"). Section 522(o) "provides that the value of property claimed as a homestead must be reduced to the extent that the value is attributable to any fraudulent transfers of nonexempt property made by the debtor within 10 years prepetition." *In re McNabb*, 326 B.R. 785, 787-88 (Bankr. D. Ariz. 2005) (citing 11 U.S.C. § 522(o)). "In light of Congress' adoption in section 522(o) of the identical 'intent to hinder, delay or defraud' language found in section 548(a)(1)(A) and section 727(a)(2), courts may look to case law under these sections for guidance in construing the requisite intent under section 522(o)." 4 Collier on Bankruptcy, ¶ 522.08 (16th ed. 2019). Accordingly, a debtor's exemptible interest in homestead property should not be reduced absent a showing of specific intent to hinder, delay or defraud, but a party may rely upon certain "badges of fraud" to prove the existence of actual fraud. *Id.*

On March 7, 2019, Movant initiated an adversary proceeding against the Debtor by filing a complaint (the "Complaint") asserting claims under §§ 523(a)(2)(A), (a)(4), (a)(6) and 727(a)(2), (a)(3), (a)(4), and (a)(5) [2:19-ap-01605] (the "Non-Dischargeability Action"). The allegations set forth in the Complaint are substantially

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**Chapter 7**

similar to the assertions underlying Movant's Objection to Homestead Exemption. Accordingly, it appears that any ruling with respect to the instant motion may have preclusive effect and potentially interfere with the Non-Dischargeability Action. Therefore, the Court finds it appropriate to defer ruling on the Objection to Homestead Exemption until the Non-Dischargeability Action has concluded.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Jessica Vogel at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

**Debtor(s):**

Neilla M Cenci

Represented By  
James R Selth

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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11:00 AM

**2:19-21148 Efren Zavala and Maria Padilla**

**Chapter 7**

**#101.00** Hearing  
RE: [35] Application to Employ Keller Williams Realty - The Parsons Real Estate Team as Broker (Avery (TR), Wesley)

Docket 35

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 7-24-20**

**Tentative Ruling:**

- NONE LISTED -

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

Efren Zavala

Represented By  
Michael O Akhidenor

**Joint Debtor(s):**

Maria Padilla

Represented By  
Michael O Akhidenor

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Joseph E. Caceres

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**Hearing Room 1568**

10:00 AM

**2:19-23315 Antony Calix Garcia**

**Chapter 7**

**#1.00 Reaffirmation Hearing Date Set**  
**RE: [16] Reaffirmation Agreement Between Debtor and US Bank National Association (Rafferty, John) -**

Docket 16

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

Antony Calix Garcia	Pro Se
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**Trustee(s):**

Howard M Ehrenberg (TR)	Pro Se
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10:00 AM

**2:19-23315 Antony Calix Garcia**

**Chapter 7**

**#2.00 Reaffirmation Hearing Date Set**  
RE: **[22]** Pro se Reaffirmation Agreement Between Debtor and **JPMorgan Chase Bank, N.A.** (Delmotte, Joseph) -

FR. 6-11-20

Docket 22

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

Antony Calix Garcia

Pro Se

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

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**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-25072 Susan Beth Lall-Yepez**

**Chapter 7**

**#3.00 Reaffirmation Hearing Date Set**  
RE: **[8]** Reaffirmation Agreement Between Debtor and **Toyota Motor Credit Corporation** (Rafferty, John) -

FR. 6-11-20

Docket 8

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

**Debtor(s):**

Susan Beth Lall-Yepez

Represented By  
Michael E Clark

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10063 Nathaly Moreno**

**Chapter 7**

**#4.00 Reaffirmation Hearing Date Set**  
RE: **[10] Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance, a division of Capital One, N.A. -**

FR. 6-11-20

Docket 10

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

**Debtor(s):**

Nathaly Moreno

Represented By  
Clifford Bordeaux

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10433 Ana Julia Lopez**

**Chapter 7**

**#5.00 Reaffirmation Hearing Date Set RE: [10] Pro se Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc. dba Chrysler Capital as servicer for CCAP Auto Lease Ltd.-**

FR. 6-11-20

Docket 10

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

**Debtor(s):**

Ana Julia Lopez

Pro Se

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10749 Marvin Lee Barnett**

**Chapter 7**

**#6.00 Reaffirmation Hearing Date Set**  
RE: **[10]** Pro se Reaffirmation Agreement Between Debtor and **Nissan Motor Acceptance Corp** (Suri, Mukta) -

FR. 6-11-20

Docket 10

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

**Debtor(s):**

Marvin Lee Barnett

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11083 Craig P Smith and Alyx Morgan**

**Chapter 7**

**#7.00 Reaffirmation Hearing Date Set**  
**RE: [11] Pro se Reaffirmation Agreement Between Debtor and Partners**  
**Federal Credit Union -**

FR. 6-11-20

Docket 11

**Party Information**

**Debtor(s):**

Craig P Smith

Represented By  
Eliza Ghanooni

**Joint Debtor(s):**

Alyx Morgan

Represented By  
Eliza Ghanooni

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11083 Craig P Smith and Alyx Morgan**

**Chapter 7**

**#8.00 Reaffirmation Hearing Date Set**  
**RE: [12] Pro se Reaffirmation Agreement Between Debtor and Partners**  
**Federal Credit Union re: 2017 Mazda -**

FR. 6-11-20

Docket 12

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

**Debtor(s):**

Craig P Smith

Represented By  
Eliza Ghanooni

**Joint Debtor(s):**

Alyx Morgan

Represented By  
Eliza Ghanooni

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11205 Blanca Rivera**

**Chapter 7**

**#9.00 Reaffirmation Hearing Date Set**  
RE: **[10] Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (Suri, Mukta) -**

FR. 6-11-20

Docket 10

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

**Debtor(s):**

Blanca Rivera

Pro Se

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Thursday, August 6, 2020

Hearing Room 1568

10:00 AM

2:20-11229 Mikhael Angel Osorio

Chapter 7

#10.00 **Reaffirmation** Hearing Date Set  
RE: [13] Pro se Reaffirmation Agreement Between Debtor and **Santander Consumer USA Inc., dba Chrysler Capital -**

FR. 6-11-20

Docket 13

**Party Information**

**Debtor(s):**

Mikhael Angel Osorio

Represented By  
Glenn Ward Calsada

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11715 Natasha Alexandria Gagarin**

**Chapter 7**

**#11.00 Reaffirmation Hearing Date Set**  
RE: **[13] Pro se Reaffirmation Agreement Between Debtor and Americredit  
Financial Services, Inc. Db a GM Financial (Nunez, Lorenzo) -**

FR. 6-11-20

Docket 13

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

**Debtor(s):**

Natasha Alexandria Gagarin

Represented By  
Louis J Esbin

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11747 Jose Luis Aubert**

**Chapter 7**

**#12.00 Reaffirmation Hearing Date Set**  
RE: **[10]** Reaffirmation Agreement Between Debtor and **Toyota Motor Credit Corporation** (Suri, Mukta) -

FR. 6-11-20

Docket 10

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

**Debtor(s):**

Jose Luis Aubert

Pro Se

**Trustee(s):**

David M Goodrich (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Thursday, August 6, 2020

Hearing Room 1568

10:00 AM

2:20-12202 Richard Ochoa Telles

Chapter 7

#13.00 Reaffirmation Hearing Date Set  
RE: [8] Reaffirmation Agreement Between Debtor and **Toyota Motor Credit Corporation** (Rafferty, John) -

FR. 6-11-20

Docket 8

**Party Information**

**Debtor(s):**

Richard Ochoa Telles

Represented By  
Daniela P Romero

**Trustee(s):**

Elissa Miller (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Thursday, August 6, 2020

Hearing Room 1568

10:00 AM

2:20-12348 Edward R Wedding

Chapter 7

#14.00 Reaffirmation Hearing Date Set  
RE: [9] Pro se Reaffirmation Agreement Between Debtor and **AMERICAN  
HONDA FINANCE CORPORATION -**

FR. 6-11-20

Docket 9

**Party Information**

**Debtor(s):**

Edward R Wedding

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12479 Rosalind Rosa**

**Chapter 7**

**#15.00** Reaffirmation Hearing Date Set  
RE: [11] Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation

FR. 6-11-20

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-22-20 AT 10:00 A.M.  
BEFORE JUDGE BARRY RUSSELL**

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

**Debtor(s):**

Rosalind Rosa

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12631 Maria Rosario Cruz**

**Chapter 7**

**#16.00** Reaffirmation Hearing Date Set  
RE: **[10]** Reaffirmation Agreement Between Debtor and **Toyota Motor Credit Corporation -**

FR. 6-11-20

Docket 10

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

**Debtor(s):**

Maria Rosario Cruz

Represented By  
Daniela P Romero

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12993 Martha Cecilia Galindo**

**Chapter 7**

**#17.00 Reaffirmation Hearing Date Set  
RE: [12] Pro se Reaffirmation Agreement Between Debtor and Santander  
Consumer USA Inc., dba Chrysler Capital -**

Docket 12

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

**Debtor(s):**

Martha Cecilia Galindo

Represented By  
Daniel King

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Thursday, August 6, 2020

Hearing Room 1568

10:00 AM

2:20-13171 Bruce Fabian Flores

Chapter 7

#18.00 Reaffirmation Hearing Date Set  
RE: **[15]** Reaffirmation Agreement Between Debtor and **VA Desert Pacific  
Federal Credit Union -**

Docket 15

**\*\*\* VACATED \*\*\* REASON: AMENDED REAFFIRMATION  
AGREEMENT FILED 7/20/20**

**Party Information**

**Debtor(s):**

Bruce Fabian Flores

Represented By  
Gregory M Shanfeld

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13239 Fiel Angelica M Del Rosario**

**Chapter 7**

**#19.00 Reaffirmation Hearing Date Set  
RE: [12] Pro se Reaffirmation Agreement Between Debtor and TD Auto  
Finance LLC (2016 Ford Transit Wagon) -**

Docket 12

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

**Debtor(s):**

Fiel Angelica M Del Rosario

Represented By  
Jaime G Monteclaro

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13750 Gary James Soloko**

**Chapter 7**

**#20.00** Reaffirmation Hearing Date Set  
RE: **[13]** Reaffirmation Agreement Between Debtor and **Bank of America, N.A.** -

Docket 13

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

**Debtor(s):**

Gary James Soloko

Represented By  
Louis J Esbin

**Trustee(s):**

Elissa Miller (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14005 Kiara A Andino**

**Chapter 7**

**#21.00** Reaffirmation Hearing Date Set  
RE: **[11]** Pro se Reaffirmation Agreement Between Debtor and **American  
Honda Finance Corporation -**

Docket 11

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

**Debtor(s):**

Kiara A Andino

Represented By  
Daniel King

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14039 Manuel E Aguilar**

**Chapter 7**

**#22.00** Reaffirmation Hearing Date Set  
RE: **[11]** Reaffirmation Agreement Between Debtor and **U.S. Bank National Association** (Rafferty, John)

Docket 11

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

**Debtor(s):**

Manuel E Aguilar

Represented By  
Marlin Branstetter

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14121 Gary Lee McLeod and Leta Jeanette McLeod**

**Chapter 7**

**#23.00** Reaffirmation Hearing Date Set  
RE: **[11]** Reaffirmation Agreement Between Debtor and **Logix Federal Credit Union**

Docket 11

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

**Debtor(s):**

Gary Lee McLeod

Represented By  
Barry E Borowitz

**Joint Debtor(s):**

Leta Jeanette McLeod

Represented By  
Barry E Borowitz

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14300 Juan Luis Castanon**

**Chapter 7**

**#24.00** Reaffirmation Hearing Date Set  
RE: **[10]** Pro se Reaffirmation Agreement Between Debtor and **Alaska USA  
Federal Credit Union**

Docket 10

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

**Debtor(s):**

Juan Luis Castanon

Pro Se

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14529 Seda Aroustamian**

**Chapter 7**

**#25.00** Reaffirmation Hearing Date Set  
RE: **[11]** Pro se Reaffirmation Agreement Between Debtor and **Mechanics Bank**

Docket 11

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

**Debtor(s):**

Seda Aroustamian

Represented By  
Rachel S Milman Esq

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14534 Jennifer A Vasquez**

**Chapter 7**

**#26.00** Reaffirmation Hearing Date Set  
RE: **[8]** Reaffirmation Agreement Between Debtor and **Toyota Motor Credit Corporation** (Rafferty, John)

Docket 8

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

**Debtor(s):**

Jennifer A Vasquez

Represented By  
Jonathan J. Lo

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15014 Yennifer Tobar**

**Chapter 7**

**#27.00** Reaffirmation Hearing Date Set  
RE: **[9]** Pro se Reaffirmation Agreement Between Debtor and **First Tech  
Federal Credit Union**

Docket 9

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

**Debtor(s):**

Yennifer Tobar

Represented By  
Michael H Colmenares

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15014 Yennifer Tobar**

**Chapter 7**

**#28.00** Reaffirmation Hearing Date Set  
RE: **[16]** Pro se Reaffirmation Agreement Between Debtor and **WELLS FARGO  
AUTO**

Docket 16

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

**Debtor(s):**

Yennifer Tobar

Represented By  
Michael H Colmenares

**Trustee(s):**

Jason M Rund (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14679 Mervin Joseph Pepe Manlangit**

**Chapter 7**

**#29.00 Reaffirmation Hearing Date Set  
RE: [12] Pro se Reaffirmation Agreement Between Debtor and Santander  
Consumer USA Inc., dba Chrysler Capital**

Docket 12

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

**Debtor(s):**

Mervin Joseph Pepe Manlangit

Represented By  
R Grace Rodriguez

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15013 Tatiana Salas**

**Chapter 7**

**#30.00 Reaffirmation Hearing Date Set**  
RE: **[9]** Pro se Reaffirmation Agreement Between Debtor and **Santander Consumer USA Inc. dba Chrysler Capital as servicer for CCAP Auto Lease Ltd.**

Docket 9

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

**Debtor(s):**

Tatiana Salas

Represented By  
Michael H Colmenares

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13320 Joy Harbison**

**Chapter 7**

**#31.00 Reaffirmation Hearing Date Set**  
**RE: [15] Pro se Reaffirmation Agreement Between Debtor and Ally Bank**

Docket 15

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

**Debtor(s):**

Joy Harbison

Pro Se

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24424 Jacobo Vargas**

**Chapter 7**

**#32.00 Reaffirmation Agreement [16] Between Debtor and Snap-on Credit LLC**  
fr. 6/4/20, 7/16/20

Docket 16

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 7-28-20**

**Party Information**

**Debtor(s):**

Jacobo Vargas

Represented By  
Jose Cervantes

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-23985 Elvira Garcia Lobusta**

**Chapter 7**

**#33.00 Reaffirmation Agreement [97] Between Debtor and Nissan Motor Acceptance Corporation**

fr. 6/4/20, 7/16/20

Docket 97

**\*\*\* VACATED \*\*\* REASON: RESCINDED 7/30/20**

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

**Debtor(s):**

Elvira Garcia Lobusta

Represented By  
Caroline S Kim

**Trustee(s):**

David M Goodrich (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Thursday, August 6, 2020

Hearing Room 1568

10:00 AM

2:18-23985 Elvira Garcia Lobusta

Chapter 7

#34.00 **Reaffirmation** Agreement [99] between Debtor and **Toyota Motor Credit Corporation**

fr. 6/4/20, 7/16/20

Docket 99

\*\*\* VACATED \*\*\* REASON: RESCINDED 7/30/20

**Party Information**

**Debtor(s):**

Elvira Garcia Lobusta

Represented By  
Caroline S Kim

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24801 Emerson Noe Rivera**

**Chapter 7**

**#35.00 Reaffirmation Agreement [12] Between Debtor and Capital One Auto Finance**  
fr. 6/4/20, 7/16/20

Docket 12

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

**Debtor(s):**

Emerson Noe Rivera

Represented By  
Marlin Branstetter

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar

Thursday, August 6, 2020

Hearing Room 1568

10:00 AM

2:19-24806 Elizabeth Rodriguez

Chapter 7

#36.00 Reaffirmation Agreement [28] Between Debtor and **Logix Federal Credit Union**

fr. 6/4/20, 7/16/20

Docket 28

\*\*\* VACATED \*\*\* REASON: RESCINDED 7-30-20

**Party Information**

**Debtor(s):**

Elizabeth Rodriguez

Represented By  
Caroline S Kim

**Trustee(s):**

Timothy Yoo (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10628 Teofilo Aguirre Chavez**

**Chapter 7**

**#37.00 Reaffirmation Agreement [17] Between Debtor and JPMorgan Chase Bank, N.A.**

fr. 7/16/20

Docket 17

**Party Information**

**Debtor(s):**

Teofilo Aguirre Chavez

Represented By  
Benard C Udeozor

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10794 Filoted Rivera**

**Chapter 7**

**#38.00 Reaffirmation Agreement [10] Between Debtor and Toyota Motor Credit Corporation**

fr. 6/4/20, 7/16/20

Docket 10

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

**Debtor(s):**

Filoted Rivera

Pro Se

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11614 Jocelyn Sudario Espiritu**

**Chapter 7**

**#39.00 Reaffirmation Agreement [12] Between Debtor and Toyota Motor Credit Corporation**

fr. 7/16/20

Docket 12

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

**Debtor(s):**

Jocelyn Sudario Espiritu

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11826 David Brian Hernandez**

**Chapter 7**

**#40.00 Reaffirmation Agreement [16] Between Debtor and Nations Direct Mortgage, LLC**

fr. 7/16/20

Docket 16

**Party Information**

**Debtor(s):**

David Brian Hernandez

Represented By  
Daniel King

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11654 Therese Renee Whitten**

**Chapter 7**

**#41.00 Reaffirmation Agreement [9] Between Debtor and Toyota Motor Credit Corporation**

fr. 5/7/20, 7/16/20

Docket 9

**Party Information**

**Debtor(s):**

Therese Renee Whitten

Represented By  
Michael Jay Berger

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11886 Luis Alfonso Vazquez and Alicia Vazquez**

**Chapter 7**

**#42.00 Reaffirmation Agreement [21] Between Debtor and JPMorgan Chase Bank, N.A.**

fr. 7/16/20

Docket 21

**Party Information**

**Debtor(s):**

Luis Alfonso Vazquez

Represented By  
Hale Andrew Antico

**Joint Debtor(s):**

Alicia Vazquez

Represented By  
Hale Andrew Antico

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12052 Andrew Erik Garcia and Victoria Josephine Lascano**

**Chapter 7**

**#43.00 Reaffirmation Agreement [18] Between Debtor and SchoolsFirst Federal Credit Union**

fr. 7/16/20

Docket 18

**Party Information**

**Debtor(s):**

Andrew Erik Garcia

Represented By  
Daniel King

**Joint Debtor(s):**

Victoria Josephine Lascano

Represented By  
Daniel King

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12161 Isabel Enedina Betancourt**

**Chapter 7**

**#44.00 Reaffirmation Agreement [12] Between Debtor and American Honda Finance Corporation**

fr. 7/16/20

Docket 12

**Party Information**

**Debtor(s):**

Isabel Enedina Betancourt

Represented By  
Marcus Gomez

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12334 Kwang Chul Choe**

**Chapter 7**

**#45.00 Reaffirmation Agreement [9] Between Debtor and Toyota Motor Credit Corporation**

fr. 7/16/20

Docket 9

**Party Information**

**Debtor(s):**

Kwang Chul Choe

Represented By  
Joseph S Park

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12565 Yuen Lung Wong and Sandy Toi Ling Wong**

**Chapter 7**

**#46.00 Reaffirmation Agreement [14] Between Debtor and Toyota Motor Credit Corporation**

fr. 7/16/20

Docket 14

**Party Information**

**Debtor(s):**

Yuen Lung Wong

Represented By  
Maria W Tam

**Joint Debtor(s):**

Sandy Toi Ling Wong

Represented By  
Maria W Tam

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13153 Cesar James Nevarez and Francis Marie Nevarez**

**Chapter 7**

**#47.00 Reaffirmation Agreement [20 ]Between Debtor and State Farm Bank, FSB C/O  
Twenty-One Eighty-Five, L.L.C. [Presumption of Undue Hardship]**

fr. 5/20/20, 6/4/20, 7/16/20

Docket 20

**Party Information**

**Debtor(s):**

Cesar James Nevarez

Represented By  
Douglas L Weeks

**Joint Debtor(s):**

Francis Marie Nevarez

Represented By  
Douglas L Weeks

**Movant(s):**

State Farm Bank, FSB C/O Twenty-

Represented By  
John Leary

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10266 Chunyuan Liu**

**Chapter 7**

**#48.00 Reaffirmation Agreement [9] Between Debtor and Toyota Motor Credit Corporation**

fr. 6/4/20, 7/16/20

Docket 9

**Party Information**

**Debtor(s):**

Chunyuan Liu

Represented By  
Maria W Tam

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13150 Mario Garcia Garcia**

**Chapter 7**

**#49.00 Reaffirmation Agreement [14] Between Debtor and TD Auto Finance LLC  
(2019 Hyundai Santa Fe)**

fr. 7/16/20

Docket 14

**Party Information**

**Debtor(s):**

Mario Garcia Garcia

Represented By  
Marlin Branstetter

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13258 Maria Guadalupe Arevalo Rodriguez**

**Chapter 7**

**#50.00 Reaffirmation Agreement [10] Between Debtor and American Honda Finance Corporation**

fr. 7/16/20

Docket 10

**Party Information**

**Debtor(s):**

Maria Guadalupe Arevalo Rodriguez

Represented By  
Omar Zambrano

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13299 Lucina Arellano and Nicolas Canales Hernandez**

**Chapter 7**

**#51.00 Reaffirmation Agreement [18] Between Debtor and Toyota Motor Credit Corporation**

fr. 7/16/20

Docket 18

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

**Debtor(s):**

Lucina Arellano

Represented By  
Oscar R Swinton

**Joint Debtor(s):**

Nicolas Canales Hernandez

Represented By  
Oscar R Swinton

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13344 Lino Aguilar**

**Chapter 7**

**#52.00** Reaffirmation Agreement **[10]** Between Debtor and **WELLS FARGO AUTO**  
fr. 7/16/20

Docket 10

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

**Debtor(s):**

Lino Aguilar

Represented By  
Barry E Borowitz

**Trustee(s):**

John P Pringle (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13584 Cindy De Jesus Aguilar**

**Chapter 7**

**#53.00 Reaffirmation Agreement Between [13] Debtor and Toyota Motor Credit Corporation**

fr. 7/16/20

Docket 13

**Party Information**

**Debtor(s):**

Cindy De Jesus Aguilar

Represented By  
Marlin Branstetter

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Thursday, August 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14436 Tony Ky Quach**

**Chapter 7**

**#54.00 Reaffirmation Agreement [8] Between Debtor and San Diego County Credit Union**

fr. 7/16/20

Docket 8

**Party Information**

**Debtor(s):**

Tony Ky Quach

Represented By  
Jonathan J. Lo

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14654 Starlene Harrison**

**Chapter 7**

**#1.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Honda Civic, VIN: 2HGF C2F8 3JH5 20993 .

Docket 8

**Tentative Ruling:**

8/6/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Starlene Harrison**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Starlene Harrison

Represented By  
Sundee M Teeple

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00 Hearing**

RE: [5069] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: 19CMSC01398 / 20CMCV00146 (wrongful termination) small claims Comptom court house .

fr. 8-3-20

Docket 5069

**Tentative Ruling:**

8/6/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The parties shall appear to clarify the status of the Small Claims Action. Movant has not provided sufficient evidence in support of her contention that the Small Claims Action will be dismissed on August 13, 2020 if stay relief is not granted. If the Small Claims Action is likely to be dismissed on August 13, 2020, the Court would be inclined to lift the stay as to the Small Claims Action, with stay relief taking effect on August 11, 2020.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 [Doc. No. 5069] (the "Motion")
- 2) Debtors' Response to Motion for Relief from the Automatic Stay Filed on Behalf of Natalie Nguyen [Doc. No. 5154]
- 3) Order Setting Continued Hearing on Motion for Relief from the Automatic Stay for August 10, 2020, at 10:00 a.m. [Doc. No. 5327]
- 4) [Untimely] Reply in Support of Motion for Relief from the Automatic Stay [Doc. No. 5386]

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 10, 2020**

**Hearing Room 1568**

10:00 AM

CONT... **Verity Health System of California, Inc.**

**Chapter 11**

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the “Petition Date”), Verity Health System of California, Inc. (“VHS”) and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors’ cases are being jointly administered.

This is a continued hearing on a *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* [Doc. No. 5069] (the “Motion”) filed by Natalie Nguyen (“Movant”). The prior hearing was conducted on August 3, 2020 (the “Prior Hearing”). The Debtors were not required to appear at the Prior Hearing because they submitted on the Court’s tentative ruling (the “Prior Tentative,” attached as **Exhibit A** and incorporated herein by reference; capitalized terms not defined herein have the meaning set forth in the Prior Tentative). In the Prior Tentative, the Court (1) lifted the stay to allow Movant to litigate the Small Claims Action, with stay relief to take effect on October 1, 2020; (2) found that the Movant’s filing of the Superior Court Action was void as a violation of the automatic stay; and (3) denied Movant’s requests to lift and retroactively annul the stay with respect to the Superior Court Action, based on a finding that Movant filed the Superior Court Action even though she knew that the automatic stay was in effect.

At the Prior Hearing, Movant appeared and represented that that the Small Claims Action would be dismissed on August 13, 2020 absent stay relief. The Court set this continued hearing to enable the Debtors to respond to Movant’s request that stay relief take effect prior to August 13, 2020. *See* Doc. No. 5327.

Subsequent to issuance of the Prior Tentative, Movant filed with the Court a series of letters in support of the Motion (the “Untimely Reply”). In the Untimely Reply, Movant argues that the Small Claims Action has merit and reiterates her contention that unless stay relief takes effect prior to August 13, 2020, the Small Claims Action will be dismissed and Movant will lose the opportunity to present her claims. Movant alleges that the Untimely Reply was served upon the Debtors, but the Untimely Reply does not contain a properly executed Proof of Service supporting this allegation.

**II. Findings and Conclusions**

The Court maintains the ruling in the Prior Tentative to deny stay relief with respect to the Superior Court Action. Nothing in the Untimely Reply or in Movant’s oral presentation at the Prior Hearing rebuts the Court’s findings that Movant filed the Superior Court Action despite knowing that the automatic stay was in effect. Therefore, as set forth in the Prior Tentative, Movant is not entitled to retroactive

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

annulment of the stay with respect to the Superior Court Action; the filing of the Superior Court Complaint is void and of no effect; and there is consequently no cause for granting stay relief as to the Superior Court Complaint since Movant cannot prosecute the Superior Court Complaint absent retroactive annulment.

Turning to the Small Claims Action, the parties shall appear to provide the Court additional information regarding the status of that action. Movant alleges that the Small Claims Action will be dismissed on August 13, 2020 absent stay relief, but has not supplied the Court with any relevant pleadings substantiating that allegation. The Court has conducted an independent review of the docket in the Small Claims Action, but the Court has access only to generic descriptions of the pleadings on file in that action, not the pleadings themselves. The docket states that that a non-appearance case review is set for August 13, 2020. The record before the Court does not reflect whether dismissal is likely to occur at the non-appearance case review. If the Small Claims Action is likely to be dismissed on August 13, 2020, the Court would be inclined to lift the stay as to the Small Claims Action, with stay relief to take effect as of August 11, 2020.

**Exhibit A—Prior Tentative**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **DENIED** as to the Superior Court Action. The Motion is **GRANTED** as to the Small Claims Action, but stay relief shall not take effect until October 1, 2020.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 [Doc. No. 5069] (the "Motion")
- 2) Debtors' Response to Motion for Relief from the Automatic Stay Filed on Behalf of Natalie Nguyen [Doc. No. 5154]
- 3) No reply is on file

**I. Facts and Summary of Pleadings**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

Natalie Nguyen ("Movant"), proceeding *in pro se*, seeks stay relief, pursuant to § 362(d)(1), for the purpose of litigating (1) an action seeking recovery of unpaid wages in the amount of \$9,999, pending in the small claims court (the "Small Claims Action," and the complaint commencing the Small Claims Action, the "Small Claims Complaint") and (2) an action seeking recovery of unpaid wages in the amount of \$26,000, pending in the Los Angeles Superior Court (the "Superior Court Action," and the complaint commencing the Superior Court Action, the "Superior Court Complaint").

Both actions were filed subsequent to the Petition Date. The Small Claims Complaint was filed on June 11, 2019; the Superior Court Complaint was filed on June 5, 2020. Movant asserts that the stay should be retroactively annulled because she was not aware of the bankruptcy petitions. Movant states that if she does not obtain stay relief prior to November 2020, both actions will be dismissed.

Debtors oppose the Motion. According to Debtors, Movant's testimony that she was unaware of the bankruptcies when she filed the actions is false. Debtors point to a letter that was served on Movant subsequent to the filing of the Small Claims Action, which advised Movant of the automatic stay. Debtors argue that Movant should not be rewarded with stay relief on the basis of a false declaration. Debtors request that if the Court is inclined to grant the Motion, stay relief not take effect until after October 1, 2020, so that the Debtors can focus upon the sale of their remaining assets and confirmation of the Plan.

## **II. Findings and Conclusions**

Both actions were filed in violation of the automatic stay. "[V]iolations of the automatic stay are void and of no effect." *Schwartz v. United States (In re Schwartz)*, 954 F.2d 569, 572 (9th Cir. 1992). Unless the Court retroactively annuls the stay, granting stay relief will not enable Movant to prosecute either action, since the complaints commencing each action were filed in violation of the stay, and are therefore void and of no effect.

"[T]he proper standard for determining 'cause' to annul the automatic stay retroactively is a 'balancing of the equities' test." *Fjeldsted v. Lien (In re Fjeldsted)*, 293 B.R. 12, 24 (B.A.P. 9th Cir. 2003). In weighing the equities, the general trend has been to focus on two factors: "(1) whether the creditor was aware of the bankruptcy



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, August 10, 2020**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

petition; and (2) whether the debtor engaged in unreasonable or inequitable conduct, or prejudice would result to the creditor." *Id.*

With respect to the first factor, the record establishes that Movant was aware of the automatic stay at the time she filed the Superior Court Complaint. On June 26, 2019—approximately one year prior to the filing of the Superior Court Complaint—the Debtors sent Movant a letter informing her of the automatic stay. On June 27, 2019, the Debtors filed a *Notice of Stay of Proceedings* in the Small Claims Action. With respect to the second factor, there is no evidence before the Court that the Debtors have engaged in unreasonable or inequitable conduct. The Court declines to retroactively annul the stay with respect to the Superior Court Complaint. Since Movant cannot prosecute the Superior Court Complaint absent retroactive annulment, there is no cause for granting stay relief as to the Superior Court Complaint.

It is not clear from the record whether Movant was aware of the automatic stay at the time she filed the Small Claims Complaint. Movant testifies that she was not aware of the stay; however, the credibility of that testimony is undercut by Movant's inaccurate testimony regarding her awareness of the stay as of the filing of the Superior Court Complaint. On the other hand, the Debtors did not send Movant a letter advising her of the stay until after the Small Claims Complaint was filed.

Having weighed the equities, the Court finds it appropriate to retroactively annul the stay as to the Small Claims Complaint. The Debtors will not be unduly prejudiced by retroactive annulment, given that the Small Claims Complaint seeks damages of only \$9,999. Pursuant to § 362(d)(1), the Court lifts the automatic stay for cause to enable Movant to prosecute the Small Claims Complaint to final judgment. The stay shall remain in effect with respect to the enforcement of any judgment against the Debtors or property of the Debtors' estate.

Stay relief shall not take effect until October 1, 2020. In determining whether the stay should be lifted to allow litigation to proceed in a non-bankruptcy forum, the most important consideration is the effect that the non-bankruptcy litigation will have upon the administration of the estate. *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984). "Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit." *Id.*

Granting stay relief at this time would require the Debtors to commit resources to defending against the Small Claims Action, which would distract the Debtors' professionals from completing tasks critical to the administration of the estates, such as selling the remaining hospitals and confirming the Plan.

### **III. Conclusion**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Based upon the foregoing, the Motion is **DENIED** as to the Superior Court Action. The Motion is **GRANTED** as to the Small Claims Action, but stay relief shall not take effect until October 1, 2020.

The Court will prepare and enter an appropriate order.

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

: **Chapter 0**  
Adv#: 2:18-01221      National Union Fire Insurance Company of Pittsburgh v. Allianz Underwriters

**#1.00**      Status Conference  
RE: [11] Motion to Change Venue/Inter-district Transfer Adversary Proceeding  
to W.D. Wash. (Plevin, Mark)

fr: 8-15-18; 11-13-18; 2-12-19; 6-11-19; 12-10-19; 5-12-20

Docket      11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Defendant(s):**

Allianz Underwriters Insurance	Pro Se
Century Indemnity Company	Represented By Mark D Plevin
Certain Underwriters at Lloyd's, Hartford Accident And Indemnity	Pro Se Represented By Philip E Smith
The Travelers Indemnity Company	Pro Se
Zurich American Insurance Co.	Pro Se

**Plaintiff(s):**

National Union Fire Insurance	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01407 Elissa D. Miller, solely in her capacity as chapte v. HD Supply Construction

**#2.00** Status Conference to monitor consummation of the settlementPre-Trial Conference RE: [1] Adversary case 2:18-ap-01407. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against HD Supply Construction Supply Group, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-15-19; 3-10-20; 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

6/15/2020

Order entered. Status conference **CONTINUED to August 11, 2020, at 10:00 a.m.**

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

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

HD Supply Construction Supply

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01409 Elissa D. Miller, solely in her capacity as chapte v. Hankey Capital, LLC, a

**#3.00 Status Hearing**

RE: [1] Adversary case 2:18-ap-01409. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Hankey Capital, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 3-19-19; 6-11-19; 8-13-19; 10-15-19; 1-14-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED ON 7-28-20**

**Tentative Ruling:**

1/13/2020

On October 24, 2019, the Court entered an *Order (1) Setting Continued Status Conference for January 14, 2020 at 10:00 a.m. and (2) Setting Litigation Deadlines* (the "Scheduling Order") [Doc. No. 35]. The Chapter 7 Trustee (the "Trustee") has granted the Defendant an extension of time to respond to the Complaint, terminable by the Trustee, while the parties discuss settlement.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines set by way of the Scheduling Order shall continue to apply, subject to an extension for good cause shown.
- 2) A continued Status Conference shall be held on **May 12, 2020, at 10:00 a.m.** The parties shall submit a Joint Status Report by no later than fourteen days prior to the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Hankey Capital, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01410 Elissa D. Miller, solely in her capacity as chapte v. Anchor Loans, LP, a

**#4.00**

Status Conference To Monitor Consummation Of Settlement Agreement  
RE: [1] Adversary case 2:18-ap-01410. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Anchor Loans, LP, a Delaware limited partnership, Anchor Fund, LLC, a California limited liability company. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims  
Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

fr. 5-12-20

fr: 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 7-2-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Anchor Loans, LP, a Delaware

Pro Se

Anchor Fund, LLC, a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-15115 John Martin Kennedy**

**Chapter 7**

Adv#: 2:17-01377 Campos v. Kennedy, MD

**#5.00** Status Hearing

RE: [1] Adversary case 2:17-ap-01377. Complaint by Yunuen Campos against John Martin Kennedy. willful and malicious injury)) (Dean, Lauren)

fr: 11-14-17; 2-13-18; 5-15-18; 8-14-18; 10-16-18; 1-23-19; 5-14-19; 9-10-19; 1-14-20; 5-19-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

5/18/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Plaintiff has obtained final judgment in the State Court (the “State Court Judgment”) against Defendant, awarding Plaintiff damages of \$225,000 for sexual battery (Cal. Civ. Code § 1798.5), gender violence (Cal. Civ. Code § 52.4), and violation of the Ralph Civil Rights Act (Cal. Civ. Code § 57.7). The portion of the State Court Judgment awarding Plaintiff attorneys’ fees in the amount of approximately \$2.5 million remains subject to an appeal and is not yet final. However, the State Court Judgment’s award of costs in the amount of \$84,090.34 is final.

On February 4, 2019, the Court found that the portion of the State Court Judgment awarding damages and costs was non-dischargeable pursuant to § 523(a)(6). Doc. Nos. 42 and 45–46. The Court stated that adjudication of the dischargeability of the fee portion of the State Court Judgment would occur once that aspect of the judgment became final. The fee portion of the State Court Judgment has not yet become final.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **August 11, 2020, at 10:00 a.m.**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**John Martin Kennedy**

**Chapter 7**

- 2) A Joint Status Report, which shall discuss the status of Defendant's appeal of the fee portion of the State Court Judgment, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

John Martin Kennedy

Represented By  
Jeffrey S Shinbrot

**Defendant(s):**

John M. Kennedy MD

Represented By  
Jeffrey S Shinbrot

**Plaintiff(s):**

Yunuen Campos

Represented By  
Robert S Lampl  
Lauren A Dean

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01225 Leslie v. Slauson Oil

**#6.00** Status Conference To Monitor Consummation Of Settlement Agreement  
RE: [1] Adversary case 2:19-ap-01225. Complaint by Sam S. Leslie against  
Slauson Oil. (Charge To Estate). Nature of Suit: (12 (Recovery of  
money/property - 547 preference)),(13 (Recovery of money/property - 548  
fraudulent transfer)) (Simons, Larry)

fr. 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

10/11/2019

Having reviewed the Joint Status Report filed by the parties, the Court **HEREBY  
ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **11/14/2019**.
  - b) The last day to disclose expert witnesses and expert witness reports is **2/25/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **3/26/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **4/14/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **4/21/2020**. (If the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**AAA American Construction, Inc.**

**Chapter 7**

motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)

- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **4/25/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **5/12/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**AAA American Construction, Inc.**

**Chapter 7**

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶ (1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶ (1)(h)(ii), and shall be filed by the deadline specified in ¶ (1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **5/25/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... AAA American Construction, Inc.**

**Chapter 7**

**Defendant(s):**

Slauson Oil

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01226 Leslie v. CAPITAL ONE, N.A.

**#7.00** Status Conference To Monitor Consummation Of Settlement Agreement  
RE: [1] Adversary case 2:19-ap-01226. Complaint by Sam S Leslie against  
CAPITAL ONE, N.A.. (Charge To Estate). Nature of Suit: (12 (Recovery of  
money/property - 547 preference)),(13 (Recovery of money/property - 548  
fraudulent transfer)) (Simons, Larry)

fr/ 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 7-14-20**

**Tentative Ruling:**

10/11/2019

Having reviewed the Joint Status Report filed by the parties, the Court **HEREBY  
ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **11/14/2019**.
  - b) The last day to disclose expert witnesses and expert witness reports is **2/25/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **3/26/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **4/14/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **4/21/2020**. (If the



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**AAA American Construction, Inc.**

**Chapter 7**

motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)

- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **4/25/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **5/12/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**AAA American Construction, Inc.**

**Chapter 7**

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶ (1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶ (1)(h)(ii), and shall be filed by the deadline specified in ¶ (1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **5/25/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... AAA American Construction, Inc.**

**Chapter 7**

**Defendant(s):**

CAPITAL ONE, N.A.

Pro Se

**Plaintiff(s):**

Sam S Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01227 Leslie v. Bank Of America N.A.

**#8.00** Status Conference To Monitor Consummation Of Settlement Agreement  
RE: [1] Adversary case 2:19-ap-01227. Complaint by Sam S Leslie against Bank  
Of America N.A.. (Charge To Estate). Nature of Suit: (12 (Recovery of  
money/property - 547 preference)),(13 (Recovery of money/property - 548  
fraudulent transfer)) (Simons, Larry)

fr. 10-15-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 7-29-20**

**Tentative Ruling:**

10/11/2019

Having reviewed the Joint Status Report filed by the parties, the Court **HEREBY  
ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **11/14/2019**.
  - b) The last day to disclose expert witnesses and expert witness reports is **2/25/2020**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **3/26/2020**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **4/14/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **4/21/2020**. (If the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**AAA American Construction, Inc.**

**Chapter 7**

motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)

- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **4/25/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **5/12/2020 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**AAA American Construction, Inc.**

**Chapter 7**

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶ (1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶ (1)(h)(ii), and shall be filed by the deadline specified in ¶ (1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **5/25/2020**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... AAA American Construction, Inc.**

**Chapter 7**

**Defendant(s):**

Bank Of America N.A.

Pro Se

**Plaintiff(s):**

Sam S Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01384 Mastan, Chapter 7 Trustee v. Discover Bank et al

**#9.00**

Status Hearing to monitor consummation of the Settlement Agreement

RE: [1] Adversary case 2:19-ap-01384. Complaint by Peter J. Mastan, Chapter 7 Trustee against Discover Bank, Jason Young Cho. (Charge To Estate).

Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Discover Bank

Pro Se

Jason Young Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT...**

**Keystone Textile, Inc.**

Meghann A Triplett  
Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01370 Mastan, Chapter 7 Trustee v. Royal Textile Print, Inc.

**#10.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01370. Complaint by Peter J. Mastan, Chapter 7 Trustee against Royal Textile Print, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-28-20**

**Tentative Ruling:**

1/13/2020

The parties having reached a settlement, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by the Court are **VACATED**.
- 2) A continued Status Conference to monitor consummation of the settlement shall be held on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. In the event the settlement has been consummated, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

CONT... Tbetty, Inc.

**Chapter 7**

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Royal Textile Print, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01375 Mastan, Chapter 7 Trustee v. JM Story, Inc.

**#11.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01375. Complaint by Peter J. Mastan, Chapter 7 Trustee against JM Story, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 2-11-20; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-29-20**

**Tentative Ruling:**

2/10/2020

Default was entered against the only Defendant in this matter on October 29, 2019. On November 25, 2019, the Court ordered the Chapter 7 Trustee (the "Trustee") to file a Motion for Default Judgment (the "Motion") against the Defendant by no later than January 10, 2020. As of the date of issuance of this tentative ruling, the Motion has not been filed.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The Trustee shall file the Motion by no later than **March 10, 2020**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o). If the Trustee does not comply with this deadline, the Court will issue an order requiring the Trustee to show cause why this action should not be dismissed for failure to prosecute.
- 2) A continued Status Conference is set for **April 14, 2020, at 10:00 a.m.** A Joint Status Report, which shall discuss the status Hwang's Chapter 7 case, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an appropriate order.

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Los Angeles  
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**CONT... Tbetty, Inc.**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JM Story, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01389 Mastan v. SYC Fabric, Inc.

**#12.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01389. Complaint by Peter Mastan against SYC Fabric, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-28-20**

**Tentative Ruling:**

1/13/2020

The parties having reached a settlement, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by the Court are **VACATED**.
- 2) A continued Status Conference to monitor consummation of the settlement shall be held on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. In the event the settlement has been consummated, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic

**United States Bankruptcy Court  
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**Tuesday, August 11, 2020**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

SYC Fabric, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01390 Mastan v. Traben USA, Inc.

**#13.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01390. Complaint by Peter Mastan against Traben USA, Inc.. (Charge To Estate). Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (2) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (3) Disallowance of Claims [11 U.S.C. § 502] Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-28-20**

**Tentative Ruling:**

1/13/2020

The parties having reached a settlement, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously set by the Court are **VACATED**.
- 2) A continued Status Conference to monitor consummation of the settlement shall be held on **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. In the event the settlement has been consummated, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.



**United States Bankruptcy Court  
Central District of California  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Traben USA, Inc.

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01034 Howard M. Ehrenberg, Chapter 7 Trustee v. Juwono

**#14.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01034. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Sugio Juwono. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By

Jose-Manuel A DeCastro

Jonathan N Helfat

**Defendant(s):**

Sugio Juwono

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By

Steven Werth

Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Marsha A Houston

Steven Werth

Mark S Horoupian

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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01035 Howard M. Ehrenberg, Chapter 7 Trustee v. Lee

**#15.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01035. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Heidi Lee. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By

Jose-Manuel A DeCastro

Jonathan N Helfat

**Defendant(s):**

Heidi Lee

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By

Steven Werth

Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Marsha A Houston

Steven Werth

Mark S Horoupian

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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01036 Howard M. Ehrenberg, Chapter 7 Trustee v. Leem

**#16.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01036. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Alvin Leem. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By

Jose-Manuel A DeCastro

Jonathan N Helfat

**Defendant(s):**

Alvin Leem

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By

Steven Werth

Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Marsha A Houston

Steven Werth

Mark S Horoupian

**United States Bankruptcy Court  
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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01037      Howard M. Ehrenberg, Chapter 7 Trustee v. Park

**#17.00**      Status Hearing

RE: [1] Adversary case 2:20-ap-01037. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Justin Park. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By

Jose-Manuel A DeCastro

Jonathan N Helfat

**Defendant(s):**

Justin Park

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By

Steven Werth

Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Marsha A Houston

Steven Werth

Mark S Horoupian

**United States Bankruptcy Court  
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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01038 Howard M. Ehrenberg, Chapter 7 Trustee v. Poon

**#18.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01038. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against David Poon. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By

Jose-Manuel A DeCastro

Jonathan N Helfat

**Defendant(s):**

David Poon

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By

Steven Werth

Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Marsha A Houston

Steven Werth

Mark S Horoupian

**United States Bankruptcy Court  
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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01039 Howard M. Ehrenberg, Chapter 7 Trustee v. Wong

**#19.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01039. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Anthony Wong. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTNUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By

Jose-Manuel A DeCastro

Jonathan N Helfat

**Defendant(s):**

Anthony Wong

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By

Steven Werth

Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By

Marsha A Houston

Steven Werth

Mark S Horoupian

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

Adv#: 2:18-01260 Amin v. Emein

**#20.00** Pre-Trial Conference  
RE: [21] Amended Complaint 2nd Amended by Michael N Berke on behalf of  
Joseph Amin against Kami Emein  
  
fr: 7-16-19, 9-10-19; 1-14-20; 5-12-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Defendant(s):**

Kami Emein

Represented By  
TJ Fox

**Plaintiff(s):**

Joseph Amin

Represented By  
Michael N Berke

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh



**United States Bankruptcy Court  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01411 Fernando v. Salamat et al

**#21.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01411. Complaint by Angela Sandra Legaspi Fernando against Marlon Camar Salamat, Daisy Anne Boiser Salamat. 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)),(91 (Declaratory judgment)) (Smyth, Stephen)

FR. 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 AM.**

**Tentative Ruling:**

5/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On February 7, 2020, the Court stayed this action pending resolution of the underlying state court action through which Plaintiff seeks to establish the indebtedness alleged to be non-dischargeable (the "State Court Action"). *See* Doc. No. 18. Plaintiff does not anticipate that a judgment in the State Court Action will be entered prior to July 2020. Both Plaintiff and Defendant have requested that the matter be referred to mediation.

Having reviewed the Joint Status Report submitted by the parties, the Court **HEREBY FINDS AND ORDERS AS FOLLOWS:**

- 1) An order assigning this matter to mediation was entered on December 11, 2019. *See* Doc. No. 14. The stay of this action is lifted for the sole purpose of allowing the parties to attend mediation. The parties shall have completed one day of mediation by no later than **July 24, 2020**.
- 2) The litigation dates and deadlines set forth in the *Scheduling Order* issued on

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10:00 AM

**CONT...**

**Marlon Camar Salamat**

**Chapter 7**

December 16, 2019 [Doc. No. 16] are **VACATED**. Litigation deadlines will be reset after the State Court Action has been resolved.

- 3) A continued Status Conference is set for **August 11, 2020, at 10:00 a.m.** A Joint Status Report shall be filed by no later than fourteen days prior to the hearing. The Status Report shall discuss (a) the results of the mediation and (b) the status of the State Court Action.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Marlon Camar Salamat

Represented By

Michelle A Marchisotto

David Brian Lally

**Defendant(s):**

Marlon Camar Salamat

Represented By

David Brian Lally

Daisy Anne Boiser Salamat

Represented By

David Brian Lally

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By

Michelle A Marchisotto

David Brian Lally

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, August 11, 2020**

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---

10:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**

**Plaintiff(s):**

Angela Sandra Legaspi Fernando

Represented By  
Stephen S Smyth

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-17235 Ruben Lino Zuniga**

**Chapter 7**

Adv#: 2:20-01118 Kwok v. Zuniga

**#22.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01118. Complaint by Richard Kwok against Ruben Lino Zuniga. (d),(e)),(65 (Dischargeability - other)),(62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (MacBride, Richard)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 6/19/20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ruben Lino Zuniga

Represented By  
Raymond J Bulaon

**Defendant(s):**

Ruben L Zuniga

Pro Se

**Plaintiff(s):**

Richard Kwok

Represented By  
Richard MacBride

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-19064 2379 Westwood Group Inc.**

**Chapter 7**

Adv#: 2:20-01094 Ehrenberg, Chapter 7 Trustee v. Levy

**#23.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01094. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against David Levy, David Levi. (Charge To Estate).  
Complaint For: (1) Avoidance Of Voidable Transfer Pursuant To 11 U.S.C. §§ 544, 548 And Cal. Civ. Code § 3439.04; (2) Recovery Of Transfer Or Value Thereof Pursuant To 11 U.S.C. § 550; (3) Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551; And (4) Turnover Of Property Pursuant To 11 U.S.C. § 542 Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Wu, Claire)

FR. 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-2021 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

2379 Westwood Group Inc.

Represented By  
Linda M Blank

**Defendant(s):**

David Levy

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Claire K Wu

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Claire K Wu

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#24.00** Status Hearing

RE: [1] Adversary case 2:19-ap-01503. Complaint by Ann Tardaguila against Gregory Tardaguila. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Mitnick, Eric)

fr. 3-10-20; 4-14-20; 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

4/13/2020

See Cal. No. 18, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

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**Tuesday, August 11, 2020**

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10:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#25.00** Status Hearing

RE: [10] **Counterclaim** by Gregory Tardaguila against Ann Tardaguila as Trustee of the Tardaguila Living Trust dated 07-16-1999, Ann Tardaguila (Altholz, Andrew)

fr. 4-14-20; 6-16-20

Docket 10

\*\*\* VACATED \*\*\* REASON: CONTINUED 10-13-20 AT 10:00 A.M.

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On December 8, 2019, Ann Tardaguila, as Trustee of the Tardaguila Living Trust dated June 16, 1999 (the "Plaintiff/Counter-defendant"), filed this non-dischargeability action against Gregory Tardaguila (the "Defendant/Counter-claimant"). Plaintiff/Counter-defendant alleges that she loaned Defendant/Counter-claimant in excess of \$750,000; that Defendant/Counter-claimant failed to repay the indebtedness; and that Defendant/Counter-claimant committed actual fraud by diverting funds that could have been used to repay the indebtedness. The Complaint seeks a judgment that the indebtedness is non-dischargeable pursuant to § 523(a)(2) (A) and (a)(6), and seeks denial of Defendant/Counter-claimant's discharge pursuant to § 727(a)(2), (3), (4)(A), and (5).

Defendant/Counter-claimant filed a Counterclaim, in which he alleges that the note evidencing the indebtedness at issue in the Complaint (the "Note") is a sham that was created to change the character of the transaction from a gift to a loan. The Counterclaim alleges that the \$750,000 loaned to Defendant/Counter-claimant was an advance upon his inheritance. The Counterclaim further alleges that the Defendant/Counter-claimant did not sign the Note until several years after the funds were advanced and that Defendant/Counter-claimant was induced to sign the Note

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Gregory Tardaguila**

**Chapter 7**

under false pretenses. The Counterclaim (1) objects to any claim against the estate on account of the Note asserted by Plaintiff/Counter-defendant; (2) seeks cancellation of the Note; and (3) seeks damages for fraud and negligent misrepresentations.

On January 16, 2020, the Court entered an order providing that the litigation deadlines set for the Counterclaim would also apply to the Complaint. Doc. No. 21.

On February 28, 2020, the Court entered an order (1) designating the first and second counterclaims as affirmative defenses to be litigated in connection with the Complaint, (2) finding that the third and fourth counterclaims for fraud and negligent misrepresentation (the "Fraud Counterclaims") accrued prepetition, were property of the bankruptcy estate, and could be prosecuted only by the Chapter 7 Trustee (the "Trustee"), (3) directing the Trustee to file a notice stating whether he intended to prosecute the Fraud Counterclaims by no later than March 13, 2020, and (4) dismissing the Fraud Counterclaims, but giving the Trustee leave to amend should he elect to prosecute the Fraud Counterclaims. Doc. No. 31. The Court subsequently extended the Trustee's deadline to determine whether to prosecute the Fraud Counterclaims to April 15, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In view of the extension of the Trustee's deadline to determine whether to prosecute the Fraud Counterclaims, a continued Status Conference shall be held on **June 16, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**



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**CONT... Gregory Tardaguila**

**Chapter 7**

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Represented By  
Andrew P Altholz

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, August 11, 2020**

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10:00 AM

**2:20-11316 Jonathan Andrew Arid**

**Chapter 7**

Adv#: 2:20-01119 Rodriguez v. Arid

**#26.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01119. Complaint by Luis Rodriguez against Jonathan Andrew Arid. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(65 (Dischargeability - other)) (Brown, David)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-7-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jonathan Andrew Arid

Represented By  
Richard G Heston

**Defendant(s):**

Jonathan Andrew Arid

Pro Se

**Plaintiff(s):**

Luis Rodriguez

Represented By  
Brian Center  
David W Brown

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11316 Jonathan Andrew Arid**

**Chapter 7**

Adv#: 2:20-01120 Frooza, Inc. v. Arid

**#27.00**

Status Hearing

RE: [1] Adversary case 2:20-ap-01120. Complaint by Frooza, Inc. against Jonathan Andrew Arid

Docket 3

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-5-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jonathan Andrew Arid

Represented By  
Richard G Heston

**Defendant(s):**

Jonathan Andrew Arid

Pro Se

**Plaintiff(s):**

Frooza, Inc.

Represented By  
Matthew Malczynski

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01404 Elissa D. Miller, solely in her capacity as chapte v. BMC Stock Holdings,

**#100.00** Pre-Trial Conference  
RE: [1] Adversary case 2:18-ap-01404. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against BMC Stock Holdings, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3 Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-15-19; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-28-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

BMC Stock Holdings, Inc., a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-13016 Sharp Edge Enterprises**

**Chapter 7**

Adv#: 2:18-01163 Leslie v. Reihanian et al

**#101.00** Pre-Trial Conference  
RE: [10] Amended Complaint by Christian T Kim on behalf of Sam S. Leslie, Sam S Leslie (TR) against Leon Reihanian. (RE: related document(s)1 Adversary case 2:18-ap-01163. Complaint by Sam S. Leslie against Leon Reihanian. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)) filed by Plaintiff Sam S. Leslie). (Kim, Christian)

fr. 6-11-19; 7-16-19; 1-15-20

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Sharp Edge Enterprises

Represented By  
Peter A Davidson

**Defendant(s):**

Leon Reihanian

Represented By  
Raymond H. Aver

DOES 1-20, inclusive

Pro Se

Abraham Reihanian, as Trustee of

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Christian T Kim  
James A Dumas Jr

**United States Bankruptcy Court  
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11:00 AM

**CONT... Sharp Edge Enterprises**

**Chapter 7**

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Christian T Kim  
James A Dumas Jr

**United States Bankruptcy Court  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#102.00** Pre-Trial Conference  
RE: [11] Crossclaim by HSBC Bank, N.A. against Jason Young Cho, Youngduk Duk Cho

Docket 11

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

HSBC Bank, N.A.

Represented By  
Jennifer Witherell Crastz

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01387 Mastan, Chapter 7 Trustee v. Bank of Hope et al

**#103.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01387. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of Hope, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of Hope

Pro Se

Jason Young Cho

Pro Se

Youngduk Duk Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett



**United States Bankruptcy Court  
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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#104.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

fr: 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-15-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

**United States Bankruptcy Court  
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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#105.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr: 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-16-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
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11:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01255 Ehrenberg, Chapter 7 Trustee v. Hsu, an Individual

**#106.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01255. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against George Hsu, an Individual. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-10-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

George Hsu, an Individual

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
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11:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01256 Ehrenberg, Chapter 7 Trustee v. Hsu

**#107.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01256. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lillian Yu-Li Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

fr: 5-12-2020

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-10-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lillian Yu-Li Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01453 Mastan (TR) v. Zendedel

**#108.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01453. Complaint by Peter J. Mastan (TR) against Nazila Zendedel. (Charge To Estate). Complaint for: (1) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.07]; (2) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.05, 3439.07]; (3) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (4) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (5) Turnover of Property [11 U.S.C. § 362] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)),(91 (Declaratory judgment)) (Mang, Tinho)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Nazila Zendedel

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang



**United States Bankruptcy Court  
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Los Angeles  
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**Tuesday, August 11, 2020**

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11:00 AM

**CONT... Bahram Zendedel**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#109.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01137. Complaint by G-Sight Solutions, LLC against Ryan James McMillin, G-Sight Solutions, Inc., a California Corporation. 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)),(14 (Recovery of money/property - other)) (Zshornack, Errol)

FR. 3-10-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-3-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Pro Se

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Pro Se

G-Sight Solutions, LLC, a California

Pro Se

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#109.10** Hearing  
RE: [60] Motion to preclude defendant's exhibits and/or witnesses

Docket 60

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-3-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Represented By  
Steven J Renshaw  
Errol J Zshornack  
Peter J Tormey

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Represented By  
Peter J Tormey  
Errol J Zshornack

G-Sight Solutions, LLC, a California

Represented By  
Peter J Tormey  
Errol J Zshornack

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-14528 Allen Joseph MacQuarrie**

**Chapter 7**

Adv#: 2:19-01144 Borish et al v. Tabingo et al

**#110.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01144. Complaint by Stephen & Ami Borish against Allen Joseph MacQuarrie. (d),(e)),(14 (Recovery of money/property - other)),(62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Bonar, Roxanne)

FR. 3-10-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Allen Joseph MacQuarrie

Represented By  
Shawn P Huston

**Defendant(s):**

Celgine Tabingo	Pro Se
Clarke Miller	Pro Se
KarmaBox Vending	Pro Se
MyKarmabox.com	Pro Se
Urban Vendor, Inc	Pro Se
Does 1 Through 20, Inclusive	Pro Se
Allan J Macquarrie	Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Allen Joseph MacQuarrie**

**Chapter 7**

**Plaintiff(s):**

Stephen Borish Pro Se

Ami Borish Pro Se

**Trustee(s):**

Timothy Yoo (TR) Pro Se

**United States Bankruptcy Court  
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**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#111.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01423. Complaint by Miguel Hernandez Cruz against Shamim Ahemmed. willful and malicious injury)) (Berke, Michael)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Pro Se

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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**2:19-18227 Albert Edward Connie**

**Chapter 7**

Adv#: 2:19-01447      Johnston v. Connie

**#112.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01447. Complaint by Cindy Johnston against Albert Edward Connie. (Charge To Estate). (Attachments: # 1 Exhibit A-G In Support of Complaint To Determine Dischargeability of Debt [11 U.S.C. 523(a)(2)(a), (4), (6) # 2 Supplement Proof of Service of Documents) 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)) (Malczynski, Matthew)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4/6/20**

**Tentative Ruling:**

- NONE LISTED -

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

Albert Edward Connie	Pro Se
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**Defendant(s):**

Albert Edward Connie	Pro Se
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**Joint Debtor(s):**

Sally Ann Connie	Pro Se
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**Plaintiff(s):**

Cindy Johnston	Represented By Matthew Malczynski
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**Trustee(s):**

Heide Kurtz (TR)	Pro Se
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**2:19-20888 Venustiano Lopez Carranza**

**Chapter 7**

Adv#: 2:19-01460 Pringle v. Carranza et al

**#113.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01460. Complaint by John P. Pringle against Venustiano Lopez Carranza, Patricia Hernandez, Jessey Carranza, Wendy J. Flores, Raul Hernandez. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Marchisotto, Michelle)

Docket 1

\*\*\* VACATED \*\*\* REASON: DISMISSED 12/5/19

**Tentative Ruling:**

- NONE LISTED -

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

Venustiano Lopez Carranza

Represented By  
Erika Luna

**Defendant(s):**

Venustiano Lopez Carranza

Pro Se

Patricia Hernandez

Pro Se

Jessey Carranza

Pro Se

Wendy J. Flores

Pro Se

Raul Hernandez

Pro Se

**Joint Debtor(s):**

Patricia Hernandez

Represented By  
Erika Luna

**Plaintiff(s):**

John P. Pringle

Represented By



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**CONT... Venustiano Lopez Carranza**

**Chapter 7**

Michelle A Marchisotto

**Trustee(s):**

John P Pringle (TR)

Represented By  
Michelle A Marchisotto

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**2:20-13394 Therese Martin Newgard**

**Chapter 7**

**#114.00** Hearing

RE: [20] Motion to Dismiss Case for Abuse pursuant to 11 U.S.C. Sec. 707(b)(1), (b)(2), and (b)(3)(B) and Contingent Motion to Extend Bar Date for Filing Complaint Under Sec. 727 Objecting to Debtor's Discharge (united states trustee (hy))

Docket 20

**Tentative Ruling:**

8/10/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED. Over a sixty-month period, the Debtor is projected to have \$28,839.60 in income available to repay 59% of unsecured claims. The §707(b) presumption of abuse arises and has not been rebutted. Following from this finding, the case will be dismissed, unless the Debtor consents to conversion to chapter 13.

**Pleadings Filed and Reviewed:**

- 1) United States Trustee's Notice of Motion and Motion to Dismiss Chapter 7 Case Pursuant to 11 U.S.C. §§707(b)(1), (b)(2), and (3)(B) and Contingent Motion to Extend Bar Date For Filing Complaint Under 11 U.S.C. § 727 Objecting to Debtor's Discharge (the "Motion") [Doc. No. 20]
  - a. Request for Judicial Notice [Doc. No. 21]
- 2) Declaration of Therese Martin Newgard in Opposition to the Motion [Doc. No. 24] (the "Opposition")
- 3) Reply to the Opposition to U.S. Trustee's Motion to Dismiss [Doc. No. 25] (the "Reply")
- 4) Notice of Lodgment of 341(a) Meeting Transcript [Doc. No. 26] (the "Transcript")

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**CONT... Therese Martin Newgard**

**Chapter 7**

**I. Facts and Summary of Pleadings**

Therese Martin Newgard (the "Debtor") commenced a voluntary chapter 7 petition on March 31, 2020 (the "Petition Date"). The Debtor owes primarily consumer, non-business debts, consisting of \$49,150 in nonpriority unsecured debt. *See* Motion, Ex. 1 [Schedule E/F] at 20-3 (pages cited herein follow the ECF pagination at the top of the document). As set forth on her Means Test form (the "Debtor's Means Test"), the Debtor represents having an adjusted current monthly income ("CMI") of \$9,257—annualized to \$111,084—and allowed deductions of \$9,488, demonstrating monthly disposable income of (\$231). *See* Motion, Ex. 1 [the Debtor's Means Test] at 51-8. The Debtor's Means Test indicates that the presumption of abuse is not triggered because her total disposable income over the next sixty months is (\$13,860), below the threshold of abuse imposed by the means test. *Id.* at 58.

The § 341(a) meeting of the creditors was initially set for May 7, 2020, continued to June 4, 2020 and concluded on that day. On June 10, 2020, the United States Trustee's Office (the "UST") filed a Statement of Presumed Abused and subsequently filed a motion to dismiss the Debtor's case for abuse pursuant to 11 U.S.C. § 707(b) (1), (b)(2), and (b)(3) (the "Motion") on July 6, 2020 [Doc. No. 20].

**Summary of the Motion**

The UST moves to dismiss this case because an appropriate calculation of Debtor's monthly disposable income triggers the presumption of abuse pursuant to 11 U.S.C. § 707(b)(2) (the "Means Test"). According to the UST, the Debtor erroneously completed her Means Test calculations by declaring a lower monthly income and improperly claiming expense deductions. As a result, the UST explains, the Debtor significantly understated her monthly disposable income over 5 years by thousands of dollars. The UST claims that a proper Means Test calculation would show that the Debtor has a monthly disposable income of \$1,579.48, after allowed deductions, equating to income of \$94,768.80 over 60 months, which constitutes approximately 192% of unsecured debt of \$49,150. Motion at 8. The UST furnished two revised Means Test forms (the "UST's Means Test") [Motion, Exs. 7, 9], which attempt to correct the inaccuracies contained in the Debtor's Means Test [Motion, Ex. 1 at 51-8] [**Note 1**]. In support of the Motion, the UST attaches the declaration of bankruptcy analyst, Yolanda Cannon, who states that the UST's Means Test is based on her review of the schedules, statements, and other financial records submitted by Debtor. *See* Declaration of Yolanda Cannon [Cannon Decl.], ¶ 7.

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First, the UST asserts that the Debtor underreported her gross monthly income because pay advices from the 6-month lookback period demonstrate that (a) she earned average monthly wages of \$9,257.18 and (b) her son earned average monthly wages of \$1,446.10. As such, the Debtor should have stated a gross monthly income of \$10,703.28, instead of \$9,257, on Line 11 of her Means Test.

Second, the Debtor allegedly claimed improper expense deductions in the total amount of \$9,488. The UST posits that the Debtor either over- or underreported the following line expense deductions on her Means Test:

1. Line 12 (Vehicle Operation Expenses, Debtor claimed \$546 but was entitled to claim \$746). The UST notes that the Debtor's vehicles are "aged," warranting a higher expense deduction than as claimed. Motion at 13.
2. Line 16 (Tax Withholdings, Debtor claimed \$2,890, but should have claimed \$2,763.06). The UST asserts that the Debtor slightly miscalculated her tax withholdings. Based on her financial records, she should have claimed a slightly lesser dollar amount for tax withholdings. Motion at 13; Cannon Decl., ¶ 22; Ex. 5.
3. Line 18 (Life Insurance Expense, the Debtor omitted expense, but was entitled to claim \$103.96). The Debtor did not include this expense on her Means Test, but pay advices indicate that she incurs an average of \$103.96 each month for her life insurance.
4. Line 22 (Additional Healthcare Expenses, Debtor claimed \$718 each month, but should have claimed only \$122.94). Based on her records, the UST notes that the Debtor's substantiated out-of-pocket healthcare expenses of \$1,817 average only \$302.83 per month during the lookback period. The \$302.83 figure should be reduced by (a) the \$55 out-of-pocket healthcare expenses allocated to the Debtor and (b) a health savings account apportionment of \$124.89. The product of the UST's calculation is \$122.94, the Debtor's proven additional healthcare expenses each month. *See* Cannon Decl., ¶ 24.
5. Line 25 (Health Insurance Expenses), Debtor claimed \$684, but was entitled to claim \$754.49). The UST clarifies that the Debtor miscalculated her healthcare insurance, disability insurance, and health savings account expenses, for which she should have claimed \$754.49.
6. Line 31 (Charitable Deductions), Debtor claimed \$250, but should have claimed \$92.35 at most). The Debtor's financial records reveal that she made average charitable contributions \$79.09 each month during the 6-month

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lookback period. However, the UST notes that the Debtor's contributions average \$92.35 per month over 2019. The UST opted to include the higher dollar sum of \$92.35 in its revised Means Test (Ex. 7). *See Cannon Decl.*, ¶ 26.

7. Line 36 (Estimated Chapter 13 Administrative Expenses), Debtor should have claimed \$141.35, instead of \$0). The Debtor should have included the amount of administrative expenses estimated under chapter 13.

Based on the foregoing, the UST submits that the Debtor has a gross income of \$10,703.28 and allowed expense deductions of \$9,123.80, indicating that her disposable income is at least \$1,579.48 per month—\$94,758.80 over 60 months—which is enough to repay 192.8% of unsecured creditors through the next 5 years. Motion at 17. The UST notes that this revised calculation is based on the income of both the Debtor and her son, but the presumption of abuse would still be triggered if the son's earnings were excluded. Taking Debtor's income exclusively into consideration results in a monthly disposable income of \$502.42 (the product of Debtor's income of \$9,257.18 minus deductions of \$8,754.76 [**Note 1**]). Hence, Debtor's disposable income over 60 months would be \$30,145.20, enough to repay over 61% of unsecured claims through the same period.

Even if the Court does not find presumed abuse, the UST maintains that this case can be dismissed as "abusive" under § 707(b)(3)(B) based on the "totality of the circumstances." In summary, the UST argues that many of Debtor's actual expenses listed in *Schedule J* are unjustified expenditures or luxuries that the Debtor cannot afford. Accordingly, Debtor's Schedule J expenses can be reasonably reduced by \$4,234.64, leaving her with a net monthly income of \$1,448.36, which is more than enough to fully repay unsecured creditors in less than 60 months. *See Motion at 23-7* (enumerating line item objections against Schedule J expenditures). Finally, if the Court denies this Motion, the UST requests an order extending the bar date to file a nondischargeability action under § 727.

**Summary of the Opposition**

On July 24, 2020, the Debtor submitted a declaration under penalty of perjury [Doc. No. 24] (the "Opposition"), asserting the following main points, arguments, and representations:

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As an initial matter, the UST inappropriately combined the Debtor's son's income with her gross earnings. Until recently, the Debtor's 21-year-old son had part-time employment at an In-N-Out establishment. The son used his wages to pay for his community college education, books, vehicle maintenance expenses for his 2007 Nissan Sentra, gas, car insurance, clothing, and grooming. Debtor does not assume any control over his son's expenses, and none of his wages go toward rental dues or other necessary household expenses. Due to the COVID-19 crisis, however, the Debtor's son quit his part-time job in March 2020 to protect the Debtor from possible coronavirus contamination. The son will become a full-time student at U.C. San Diego, but he will probably continue to reside with the Debtor. The Debtor assumes continued responsibility for all of her son's necessary household expenditures.

Second, if the Court were to exclude her son's income, the Debtor's net disposable income would not trigger the presumption of abuse based on the allowed expenditures proposed by the UST (\$9,257.18 minus \$ 9,123.80 equals monthly dispositive income of \$133.38). A monthly dispositive income of \$133.38 is not presumptively abusive under § 707(b)(2). Moreover, it should be considered a "special circumstance" that since leaving his In-N-Out job, the Debtor gives her son an additional \$200 a month for gas and car insurance.

Third, with respect to the "totality of the circumstances" argument, the Debtor disputes the disallowance of several expense items in Schedule J. A summary of the Debtor's arguments is set forth below:

1. **Pet expenses of \$105 [Note 2].** The Debtor claims to be divorced and stays at home for extended periods of time due to the pandemic. Her two cats provide her with companionship and help ease her anxiety and panic disorder, for which she has received treatment. These expenses are reasonable and necessary for her mental health.
2. **Storage unit expenses of \$320.** Debtor lives in a small 2-bedroom house with limited closet space. The Debtor keeps "irreplaceable" mementos at the storage space, which possess no tangible value.
3. **Out-of-pocket medical expenses of \$773.** The UST wrongly lowered her actual medical expenses, as it neglected to consider the cost of a dental procedure of \$4,310 on March 20, 2020. The financial records the Debtor submitted did not support the March 20 expenditure, which was still "an estimated future cost" at the time. Instead, Debtor's records reflect payment for

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dental procedures done in early March. The \$1,500 health savings account allotment will be applied against the early March dental costs, not the March 20 procedure.

4. **Financial assistance to mother and aunt.** The Debtor gives her mother an average of \$374 per month for necessary living expenses. The Debtor's mother does not reside with her, but the Debtor is concerned that her social security income is insufficient to live on. Similarly, the Debtor provides her aunt financial assistance, which averages at \$120 each month.
5. **Charitable Expenses of \$190.** The Debtor asserts that the \$190 she contributes to the Boy Scouts of America each month is necessary for her ongoing training as a scout leader, a position she has held since 2010.

Finally, the Debtor contends that there are "special circumstances" that will result in increased expenditures in the near future. First, the Debtor's vehicle (a 2002 Toyota Camry) will need to be replaced with "a modestly priced new car" such as a 2020 Toyota RAV4, which would cost approximately \$26,000. This purchase will increase the Debtor's monthly expenses by \$413 or more. *See* Opposition at 10. Second, the Debtor appeals that her 401K contribution of \$182 should be counted as a "special circumstance" expense. The Debtor does not believe that she will be able to subsist on a social security wage once she retires in a few years. Furthermore, the Debtor explains that the Las Vegas trip with her family was organized to celebrate her mother's and son's birthday. The Debtor chose Las Vegas as "the rooms and the food would be cheaper than anywhere else that [they] could have gone." The Debtor estimates that she spent about \$1,000 out-of-pocket for the entire trip. Based on Debtor's additional expenditures, disclosed for the first time in the Opposition, her monthly dispositive income is (\$605) and her actual net monthly income is (\$513).

**Summary of the Reply**

On July 30, 2020, the UST submitted a reply [Doc. No. 25] (the "Reply"), with a copy of the § 341(a) Meeting of the Creditors transcript affixed thereto (the "Transcript"), making the following main points, arguments, and representations:

Even without considering the son's earnings, the monthly dispositive income of the Debtor alone is sufficient to trigger the presumption of abuse. None of the "special circumstances" listed by the Debtor rise to the level of the exigent situations contemplated under § 707(b)(2), i.e. a "serious medical condition" or a "a call or order

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to active duty in the Armed Forces." The Debtor's argument that her retirement contributions should be considered a "special circumstance" misses the mark. Pursuant to Ninth Circuit precedent, "voluntary retirement contributions are per se not a necessary expense," and they are "neither extraordinary nor rare." *See In re Egebjerg*, 574 F.3d 1045, 1051-52 (9th Cir. 2009). In addition, the desire to buy a new car cannot be a special circumstance, as such expense would place an untenable burden of \$413 each month on her purportedly negative monthly income of (\$513). The Debtor should not be allowed to use chapter 7 relief to maintain her discretionary spending while not paying her unsecured creditors anything.

With respect the totality of the circumstances under § 707(b)(3)(B), the Debtor's expenses can be reduced by about \$4,234.64 based on the financial records proffered to the UST. However, the Debtor does not wish to reduce her discretionary spending, as she is now attempting to increase her expenditures by an additional \$513 than the amount originally reported on her Schedule J. Many of the Debtor's expenses are excessive and neither necessary nor reasonable. For example, removing the storage rental expense of \$320 altogether would enable the Debtor to pay 39% of creditors over 5 years. Even more disconcerting is that the 5-year rental cost of the unit exceeds the value of stored items by about \$9,000. Bankruptcy courts have dismissed chapter 7 cases under the "totality of the circumstance" if debtors can pay at least 19% of unsecured claims. *See In re Pak*, 343 B.R. 239 (Bankr. N.D. Cal. 2006). To recap, the Debtor's proven necessary expenses total \$4,234.64, of which \$1,750 is allocated to rent and \$2,484.64 to food, household expenses, gas, and insurance each month. The UST argues that this is a reasonable sum of expenses and would leave Debtor a monthly net income of \$1,448.36. After accounting for chapter 13 expenses, the Debtor would be capable of paying all unsecured claims in 37 months. Alternatively, Debtor's case should be dismissed as abusive under the totality of the circumstances.

## **II. Findings of Fact and Conclusions of Law**

### **A. The Debtor's Case is Presumptively Abusive**

This Court has explained the function and purpose of the Means Test as follows:

Among the significant changes effected by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") was the introduction of the § 707(b)(2) Means Test. Designed to ferret out abusive bankruptcy petitions, the Means Test creates a "presumption of abuse" if the debtor's



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Current Monthly Income (CMI)—as determined by a detailed statutory formula—is above a certain amount. Debtors unable to rebut the presumption of abuse may have their cases dismissed or be required to fund a Chapter 13 plan. However, even debtors who survive the Means Test may see their cases dismissed pursuant to § 707(b)(3)(B), which permits the Court to dismiss a case if "the totality of the circumstances ... of the debtor's financial situation demonstrates abuse."

*In re Jensen*, 407 B.R. 378, 380–81 (Bankr. C.D. Cal. 2009).

**1. The Debtor's CMI is \$9,257.18**

"Current monthly income" ("CMI") for purposes of the Means Test calculation is defined as the "average monthly income from all sources that the debtor receives ... during the 6-month period ending on the last day of the calendar month immediately preceding the date of the commencement of the case ...." 11 U.S.C. § 101(10A).

For the purposes of the Means Test calculation, the Court determines that the Debtor has a CMI of \$9,257.18. Both the Debtor and the UST acknowledge that the Debtor's son ceased working sometime in March 2020, during the 6-month lookback period. *See* Opposition at 4, ¶ 7; Reply at 4. In reaching this conclusion, the Court need not determine whether the son's earnings constitute "current monthly income" as defined under § 101(10A).

**2. The Debtor is entitled to claim deductions totaling \$8,776.52**

The Debtor's Means Test indicates that Debtor claimed monthly income deductions of \$9,488. *See* Motion, Ex. 1 at 58. Meanwhile, the UST's position rests on the claim that Debtor inaccurately completed the Means Test with respect to seven itemized deductions: Lines 12 (vehicle operation expenses), 16 (tax withholdings), 18 (life insurance expense), 22 (additional healthcare expense), 25 (healthcare insurance expenses), 31 (charitable contributions), and 36 (estimated chapter 13 expenses). Based on the UST's amended Means Test, the Debtor should have only claimed \$8,754.76 in deduction allowances. *See* Motion, Ex. 9.

The Code provides that a debtor's monthly expense allowances consist of "the debtor's applicable monthly expense amounts specified under the National Standards

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and Local Standards." *See* 11 U.S.C. § 707(b)(2)(A)(ii)(I). The House Report issued concurrently with BAPCPA explains that the relevant standards are those listed in the Internal Revenue Service Financial Analysis Handbook (the "IRS Handbook") as Necessary Expenses under the National and Local Standards categories. H.R.Rep. No. 109–31 at 13–14 (2005), U.S. Code Cong. & Admin. News 2005, p. 88 (footnotes omitted). The IRS Handbook is part of the IRS's Internal Revenue Manual (the "IRM"). H.R.Rep. No. 109–31 at 13, n. 62. "[T]he local standards for housing, utilities, and transportation serve as a cap. The taxpayer is allowed the local standard or the amount actually paid, whichever is less." IRM § 5.19.1.4.3.2(2) (emphasis omitted). "If a debtor's actual expenses exceed the amounts listed in [the IRS's] National and Local Standards tables, the debtor may claim an allowance only for the specified sum, rather than for his real expenditures." *Ransom v. FIA Card Servs., N.A.*, 562 U.S. 61, 131 S. Ct. 716, 178 L. Ed. 2d 603 (2011). "*Ransom* instructs that the [IRM], may be relevant and even persuasive authority to the extent it helps interpret the National Standards and Local Standards and to the extent it does not conflict with the Bankruptcy Code." *In re Luedtke*, 508 B.R. 408, 415 (B.A.P. 9th Cir. 2014).

Out of the seven expense item amendments proposed by the UST, only four address overstated itemized deductions: Line 12 (vehicles operation expenses), Line 16 (tax withholdings), Line 22 (additional out-of-pocket healthcare expenses), and Line 31 (charitable deductions). For the other three items, the UST avers that the Debtor should have claimed a higher deduction. As such, the Court will focus its discussion on the four itemized deductions that the UST contends were unjustifiably inflated. The Court is persuaded that the remaining itemized deductions are accurate as represented by the Debtor in her Means Test (Exhibit 1) or as amended by the UST (Exhibit 9).

i) Line 12 – Vehicle Operating Expenses

The Debtor's Means Test claims expense deductions for vehicle operating expenses in the amount of \$546, while the figure cited in the UST's Means Test is \$473. *See* Motion, Ex. 9. Part 5, Chapter 15, Section 1 of the IRM sets forth the scope of transportation expenses that are part of the Local Standards and provides procedures on how IRS employees should assess such allowable expenses. Section 1 instructs that taxpayers shall be "allow[ed] the full operating standard amount, or the amount actually claimed by the taxpayer, whichever is less." IRM § 5.15.1.10 (2019) (emphasis omitted). If a vehicle-owning debtor is not responsible for any car

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payments, only operating expenses shall be allowed. *See id.* Furthermore, in determining which outlays are considered necessary transportation expenses, section 1 counsels that:

Transportation expenses are considered necessary when they are used by taxpayers and their families to provide for their health and welfare and/or the production of income... Expenses that appear to be excessive should be questioned and, in appropriate situations, disallowed.

*See id.* As of the Petition Date, the standard operating amount allowed for a household with two vehicles in Los Angeles is \$508. *See* Local Standards: Transportation, IRS, <https://www.irs.gov/businesses/small-businesses-self-employed/local-standards-transportation> (last accessed on August 9, 2020). Because there are two functioning vehicles in the Debtor's household (one operated by Debtor and the other one by her son), the Court concludes that Debtor is entitled to claim an expense deduction of \$508 for vehicle operating costs. In her testimony presented at the § 341(a) Meeting of Creditors, the Debtor asserted that a third vehicle (a 1998 Forerunner) was not in working condition: "I drove that car into the ground, in 2017. It's been sitting idle." Transcript [Doc. No. 26] at 11:18-23. Any costs associated with the third inoperable vehicle are deemed to be excessive and are disallowed. *See* IRM § 5.15.1.10 ("A single taxpayer is normally allowed ownership and operating costs for one vehicle"); *see also In re Luedtke*, 508 B.R. 408 (finding that the allowance of an older vehicle operating expense on a debtor's mean test was "at odds with" § 707(b)(2)(A)). Therefore, the Debtor is entitled to claim vehicle operating expenses of \$508.

ii) Line 16 – Tax Withholdings

The Debtor concedes that the tax withholdings deduction of \$2,763.06, the figure cited by the UST in the revised Means Test, is justified. Opposition at 12. The Court agrees that this amount is supported by the record evidence submitted by Debtor. *See* Motion, Exs. 5, 9.

iii) Line 22 – Additional Healthcare Expenses

The Debtor's Means Test claims an expense deduction for additional healthcare expenses averaging \$718 per month. The UST counters that Debtor's records only provide support for expenditures averaging \$302.83 per month. In addition, this figure

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should be reduced to \$122.94 per month on account of the Debtor's standard healthcare deduction of \$55 and application of her health savings account allocation of \$124.89. In the Opposition, the Debtor explains that the higher expense amount is based on future out-of-pocket healthcare costs in relation to a dental procedure plan prescribed on or about March 20, 2020. *See* Opposition at 7; Motion, Ex. 4 at 163 (a copy of Debtor's treatment plan). In other words, the Debtor has not yet incurred out-of-pocket costs pursuant to the treatment plan. This expense is contingent on external factors outside of the Debtor's control as indicated by her own statements:

It was hard for me to get an estimate from my current and new dentist. We just started our relationship in early March and then went on hiatus 3/11 when the stay at home orders were formulating. So I can't follow up, get more work done, etc... unless it's an emergency and I'm confident that I am protected from being exposed to Covid.

*Id.* at 160-61. Part 5, Chapter 15, Section 1 of the IRM clarifies that "all deviations from the national standards for out-of-pocket health care expenses must be verified, reasonable and documented in the case history." Here, the Debtor has proffered no documentation showing that these out-of-pocket healthcare costs have yet been sustained. The Court further notes that the treatment plan referenced only provides an estimated projection of procedure costs, which are subject to change. *See* Motion, Ex. 4 at 163. Therefore, the Court determines that the Debtor is only allowed to claim proven out-of-pocket healthcare deductions of \$122.94. *C.f. In re Luedtke*, 508 B.R. at 416 (debtors "presented no evidence that would have permitted the bankruptcy court to infer that [they] had actually incurred or were virtually certain to incur a change in their transportation expenses.").

iv) Line 31 – Charitable Contributions

The Debtor asserts that her charitable offerings total an average of \$190 each month, as supported by a list of expenses attached to the Opposition as Exhibit E.

At the outset, the Court notes that the list of additional contributions is inconsistent with the representations made by the Debtor in May of 2020: "[m]y charitable contributions are all for Scouting for 2019 totalling \$1108.22." *See* Motion, Ex. 4. As set forth in Exhibit E, the Debtor now claims making an extra \$1,177.42 in charitable expenditures in 2019. Second, the UST requested financial information

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**CONT... Therese Martin Newgard**

**Chapter 7**

concerning Debtor's charitable contributions more than three months ago. *See* Motion, Ex. 3. The Debtor had ample opportunity to supply the UST with supplemental or amended documentation. However, she offers no justification for having waited this long to give critical information relating to the UST's investigation. Based on the records the Debtor made available, the UST reached a determination to expend time and resources to file this Motion. The Court sees no reason to deviate from the expense deduction evidenced by the records supplied to the UST. Notwithstanding, having examined Debtor's untimely disclosures, the Court finds that her total charitable contributions average only \$156.93 per month over the 6-month lookback period. Even considering the higher expense deduction based on Exhibit E, the Debtor's case would still trigger the presumption of abuse under § 707(b)(2), as noted below. **[Note 3]**. Therefore, the Debtor's proven charitable contributions over the lookback interval average \$79.09 per month. *See* Cannon Decl., ¶ 26.

In sum, the Court determines that the Debtor is entitled to claim **\$8,776.52** in expense deductions for the purpose of the Means Test calculation. The revised Means Test attached as Exhibit 9 of the Motion is essentially correct, except for expense items 12 and 31 discussed above.

**3. Means Test Calculation**

Based on the foregoing, the presumption of abuse arises. Debtor's CMI is **\$9,257.18**. The Debtor's total monthly expense deductions are **\$8,776.52**. That leaves the Debtor with monthly disposable income of \$480.66, or disposable income over a 60-month period of **\$28,839.60**, which would be enough to pay off 59% of unsecured claims. The Debtor's disposable income far exceeds the \$13,650 threshold triggering the presumption of abuse under §707(b)(2)(A)(i)(II).

**B. The Debtor Has Failed to Rebut the Presumption of Abuse**

Section 707(b)(2)(B)(i) provides that the presumption of abuse may be rebutted by "demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances ... justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative." To establish special circumstances, the Debtor must itemize each additional expense and provide "a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable." § 707(b)(2)(B)(ii). Here, the Debtor claims the existence of several

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**Chapter 7**

special circumstances requiring consideration such as a) her desire to buy a new car (e.g., a 2020 Toyota RAV4), b) her desire to continue contributing to her 401K to retire in a few years, and c) her son's decision to leave his part-time job due to COVID-19 concerns. While the Debtor's statements appear to be well-intentioned, the occurrence of these additional expenditures does not rise to the level of an exigent situation akin to a serious medical condition or the responsibility to serve in active duty. The Court is persuaded by the UST's position that the Debtor can cut out extraneous expenses, enabling her to pay a significant portion of her unsecured debts. Therefore, the presumption of abuse arises under §707(b) and has not been rebutted. Because the Court finds that this petition is presumptively abusive, it will not consider dismissal under the totality of the circumstances test, or the UST's request to extend the deadline to object to the Debtor's discharge.

**C. The Case Will Be Dismissed Unless Debtor Consents to Conversion to Chapter 13**

Where the §707(b) presumption of abuse arises and has not been rebutted, the Court must dismiss the case, unless the Debtor consents to conversion to chapter 13. 11 U.S.C. § 707(b)(1). While the Motion seeks only dismissal, and not conversion, § 707(b)(1) expressly provides debtors the option to convert to chapter 13 if the Court finds that relief under chapter 7 would be abusive. Because the Court finds that Debtor is capable of repaying a significant portion of her unsecured debt, this case is suitable to proceed under chapter 13. Therefore, based upon the Debtor's election, the case will either be dismissed or converted to chapter 13.

**III. Conclusion**

For the reasons set forth above, the Motion is GRANTED. Over a sixty-month period, the Debtor is projected to have \$28,839.60 in income available to repay 59% of unsecured claims. The §707(b) presumption of abuse arises and has not been rebutted. Following from this finding, the case will be dismissed, unless the Debtor consents to conversion to chapter 13.

The Debtor's counsel is instructed to make a telephone appearance to advise the Court whether the Debtor consents to conversion to chapter 13. The UST is not required to appear, unless the Debtor plans to respond to the tentative ruling. **If the Debtor intends to respond to the tentative ruling, her counsel must advise the UST's attorney of her intention to do so, on a timely basis, prior to the hearing.**

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**Chapter 7**

The UST is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The revised means test forms on Exhibits 7 and 9 are substantially similar, with the exception of two line items. The means test form on Exhibit 9 represents the Debtor's income and expenses, without consideration of the Debtor's son's income. The lower expense deductions provided in Exhibit 9 reflect line item modifications for (a) vehicle expenses, from \$746 to \$473 (one of the Debtor's vehicles is currently not operative and "sitting idle") and (b) chapter 13 estimated expenses from \$141.35 to \$44.96 (on account that Debtor's son's income would not go towards monthly plan payments).

**Note 2:** Without apparent explanation, the Debtor increases her pet expenses from \$80 to \$105.

**Note 3:** Even if the Court were to accept Debtor's additional charitable contributions, her allowed expense deductions throughout the 6-month lookback period would only increase to \$8,881.03. That figure would still leave her with disposable income of \$22,423.80, aggregated over 60 months, exceeding the presumption threshold by approximately \$14,000.

**Party Information**

**Debtor(s):**

Therese Martin Newgard

Represented By  
Leon D Bayer

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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**CONT... Therese Martin Newgard**

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**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01433 United International Mortgage Solutions, Inc. v. HERNDON et al

**#115.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01433. Complaint by United International Mortgage Solutions, Inc. against SHERWOOD HERNDON, an individual. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-23-20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

United International Mortgage	Represented By Matthew D. Resnik Roksana D. Moradi-Brovia
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**Defendant(s):**

SHERWOOD HERNDON	Pro Se
All Persons or Entities Unknown	Pro Se
DOES 1 to 100, inclusive	Pro Se

**Plaintiff(s):**

United International Mortgage	Represented By Matthew D. Resnik
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01434 United International Mortgage Solutions, Inc. v. WALTER WALLACE, an

**#116.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01434. Complaint by United International Mortgage Solutions, Inc. against WALTER WALLACE, an individual, KENYATTA MONIFA, an individual. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD 1-14-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

United International Mortgage	Represented By Matthew D. Resnik Roksana D. Moradi-Brovia
-------------------------------	---

**Defendant(s):**

WALTER WALLACE, an individual	Pro Se
KENYATTA MONIFA, an	Pro Se
DOES 1 to 10 Inclusive	Pro Se
All Persons or Entities Unknown	Pro Se

**Plaintiff(s):**

United International Mortgage	Represented By Matthew D. Resnik
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**United States Bankruptcy Court  
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**Hearing Room 1568**

11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01377 Packaging Corporation of America v. Bonert et al

**#117.00** Pre-Trial Conference RE: [10] Amended Complaint with proof of service by Scott E Blakeley on behalf of Packaging Corporation of America against Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's 3144, LLC, Bonert's Incorporated dba Bonert's Slice of Pie, Bonert's Jadahasa, LLC, Bonert's MV, LLC, Bonert's Mibon LLC, DOES 1-10. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Judgement) (Blakeley, Scott)

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-21 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
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**CONT... Michael Bonert**

**Chapter 11**

Beefam, LLC

Represented By  
Lawrence M Jacobson

DOES 1-10

Pro Se

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

Vivien Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Packaging Corporation of America

Represented By  
Scott E Blakeley

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Los Angeles  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01378 Coastal Carriers, LLC v. Bonert et al

**#118.00** Pre-Trial Conference RE: [10] Amended Complaint with proof of service by Scott E Blakeley on behalf of Coastal Carriers, LLC against Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's 3144, LLC, Bonert's Incorporated dba Bonert's Slice of Pie, Bonert's Jadahasa, LLC, Bonert's MV, LLC, Bonert's Mibon LLC, DOES 1-10. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Judgement) (Blakeley, Scott)

Docket 0

**\*\*\* VACATED \*\*\* REASON: REMANDED 10-17-19**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

DOES 1-10

Pro Se

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert's Mibon LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

Vivien Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Coastal Carriers, LLC

Represented By  
Scott E Blakeley

**United States Bankruptcy Court  
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**Tuesday, August 11, 2020**

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11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#119.00** Pre-Trial Conference

RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Capitol Distribution Company, LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Inc., a California corporation, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

Docket 9

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
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---

11:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

Beefam, LLC

Represented By  
Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Capitol Distribution Company, LLC

Represented By  
Sean Lowe  
Scott E Blakeley



**United States Bankruptcy Court  
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**Tuesday, August 11, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

**#120.00** Pre-Trial Conference  
RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Stratas Foods LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Incorporated dba Bonert's Slice of Pie, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

Docket      9

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-15-20 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
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**Hearing Room 1568**

11:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
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**Wednesday, August 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-24622 Yvonne K. Lausch**

**Chapter 7**

**#1.00 Bond Payments - International Sureties, LTD**

Hearing re [44] and [45] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

8/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$3,250 [*see* Doc. No. 44]

Total Expenses: \$86.20 [*see id.*]

Bond Payments: \$10.68 (previously disbursed)

Grobstein Teeple LLP: \$1,000 (previously disbursed by court order [Doc. No. 40])

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic

**United States Bankruptcy Court  
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**Wednesday, August 12, 2020**

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10:00 AM

**CONT... Yvonne K. Lausch**

**Chapter 7**

appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

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

**Debtor(s):**

Yvonne K. Lausch

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
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**Wednesday, August 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-24622 Yvonne K. Lausch**

**Chapter 7**

**#2.00 APPLICANT: Accountant for Trustee (Other Firm) - Grobstein Teeple  
LLP**

Hearing re [44] and [45] Trustee's Final Report and Applications for  
Compensation

Docket 0

**Tentative Ruling:**

8/11/2020

See Cal. No. 1, incorporated in full by reference.

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

**Debtor(s):**

Yvonne K. Lausch

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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10:00 AM

**2:18-24622 Yvonne K. Lausch**

**Chapter 7**

**#3.00 APPLICANT: Trustee - Howard M. Ehrenberg**

Hearing re [44] and [45] Trustee's Final Report and Applications for  
Compensation

Docket 0

**Tentative Ruling:**

8/11/2020

See Cal. No. 1, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Yvonne K. Lausch

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
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**Wednesday, August 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00** Hearing RE [4285] Objection regarding transfer of the SFMC **Medicare** Provider Agreement.

fr. 5-13-20

fr. 6-10-20

FR. 7-1-20

fr. 7-15-20

FR. 7-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-4-20 [D.E. 5349]**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, August 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** Hearing re [4568] Hearing Re Issues Regarding Transfer of Seton **Medicare** Provider Agreement

fr. 5-13-20

fr. 6-10-20

FR. 7-1-20

fr. 7-15-20

FR. 7-29-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-4-20 [D.E. 5349]**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, August 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** Hearing  
RE: [5124] Debtors Motion to Approve Compromise Among St. Vincent Medical Center, Central Health Plan of California, Inc., Central Health MSO, Inc., and Seoul Medical Group, Inc.

Docket 5124

**Tentative Ruling:**

8/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice and Motion to Approve Compromise Among St. Vincent Medical Center, Central Health Plan of California, Inc., Central Health MSO, Inc., and Seoul Medical Group, Inc. [Doc. No. 5124] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5118, 5119, 5120, 5124, 5125, 5128, 5129, 5130, 5131, 5133, 5135 and 5137 [Doc. No. 5334]
- 2) Creditor Seoul Medical Group Inc.'s Notice of Joinder to [the Motion] [Doc. No. 5265]

**I. Facts and Summary of Pleadings**

On August 31, 2018, Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' case are being jointly administered. The Debtors seek approval of a settlement agreement (the "Settlement Agreement") between Debtor St. Vincent Medical Center ("SVMC"), on the one hand, and Central Health Plan of California, Inc. ("CHP"), Central Health MSO, Inc.

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Central District of California  
Los Angeles  
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("CHMSO") and Seoul Medical Group, Inc. ("SMG"), on the other hand. No opposition to the Motion is on file.

**A. Background**

SVMC and CHP are parties to a *Full Risk Hospital Services Agreement* dated May 1, 2017 (the "Full Risk Agreement"), under which CHP agreed to pay monthly capitation payments to SVMC on a per member/per month basis for those enrollees of a certain Medicare plan offered by CHP who were assigned a primary care physician at SMG (the "Capitated Members"). Under the terms of the Full Risk Agreement, SVMC assumed financial responsibility for certain facility services rendered to Capitated Members in exchange for per member/per month payments from CHP.

SVMC and SMG were parties to a *Healthcare Services Risk Sharing Agreement* dated May 1, 2017 (the "Risk-Sharing Agreement"), under which SMG agreed to coordinate and manage the use of facility services rendered by SVMC to Capitated Members of SMG in exchange for compensation as set forth in the Risk-Sharing Agreement.

SVMC and CHMSO were parties to a *Management Services Agreement* dated May 1, 2017 (the "Management Agreement") under which CHMSO agreed to administer claims under the Full Risk Agreement and prepare risk pool reports in exchange for compensation as set forth in the Management Agreement.

On August 28, 2018, CHP notified SVMC that, effective August 24, 2018, CHP and SMG had mutually agreed to assign the financial responsibility for the Capitated Members from SVMC back to CHP. CHP ceased making per member/per month payments to SVMC under the Full Risk Agreement for the months of September through December 2018, and thereafter.

On September 4, 2018, CHP notified SVMC that, effective August 31, 2018, CHP would terminate the Full Risk Agreement. CHP later retracted this notice of termination but maintained that it had withdrawn, and reassumed, the delegation of responsibility to SVMC under the Full Risk Agreement.

SVMC alleges that (1) SMG breached the Risk-Sharing Agreement and wrongfully denied SVMC its anticipated per member/per month payments and ensuing share of risk pool surpluses for the months of September through December 2018; that (2) CHP breached the Full Risk Agreement by depriving SVMC of its anticipated per member/per month payments and ensuing share of risk pool surpluses for the months of September through December 2018; and that (3) CHP wrongfully interfered with SVMC's rights under the Risk-Sharing Agreement (collectively, the

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“SVMC Claims”). SMG and CHP deny that they breached or interfered with their respective agreements with SVMC and dispute SVMC’s allegation that it suffered damages.

On March 29, 2019, CHP filed a general unsecured claim against SVMC in the amount of not less than \$4,539,112.68 (the “CHP POC”), arising from claims made, or to be made, against CHP on account of obligations incurred by SVMC to third-party providers under the Full Risk Agreement. SVMC disputes the allowability of the CHP POC.

On May 22, 2019, SMG filed two identical general unsecured claims against SVMC, each in the amount of \$4,008,832.37, representing the amount SMG asserts is owed to it by SVMC under the Risk-Sharing Agreement plus attorneys’ fees (the “SMG POCs”). SVMC disputes the allowability of the SMG POCs.

On October 7, 2019, SMG asserted an administrative expense claim in the amount of \$4,096,005.72, representing the amount SMG assert it is owed by SVMC under the Risk-Sharing Agreement, plus attorneys’ fees and costs (the “SMG Admin Claim”). SVMC disputes the allowability of the SMG Admin Claim.

On October 9, 2018, CHMSO filed a general unsecured claim against SVMC in the amount of \$213,835.26, for unpaid management fees allegedly incurred by SVMC in July and August 2018 under the Management Agreement, and on March 29, 2019, CHMSO filed a functionally identical claim asserting the same amount on the same grounds (the “CHMSO POCs”). SVMC disputes the allowability of the CHMSO Claims.

**B. Summary of the Settlement Agreement**

The Settlement Agreement resolves all claims, obligations, and liabilities between SVMC, SMG, and CHMSO arising from or related to the Full Risk Agreement, the Risk-Sharing Agreement, and the Management Agreement. The Settlement Agreement does not affect the rights and liabilities of CHP and SVMC arising from or related to a separate *Hospital Services Agreement* dated May 1, 2016 (the “FFS Agreement”).

The Settlement Agreement takes effect once an entry approving the instant Motion becomes final and non-appealable (the “Effective Date”). The Settlement Agreement requires SMG and CHP to collectively deposit the sum of \$450,000 with SVMC’s counsel, to be held in counsel’s client trust account pending the Settlement Agreement’s Effective Date. Upon the Effective Date, the CHP POC, the SMG POCs, the CHMSO POCs, and the SMG Admin Claim shall be deemed withdrawn with

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prejudice. Under the Settlement Agreement, the Parties acknowledge that the Risk-Sharing Agreement lapsed by its terms on December 31, 2018, and the Parties agree that the Full Risk Agreement shall be deemed terminated by mutual consent and without further liability as of January 31, 2020.

## **II. Findings and Conclusions**

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Settlement Agreement is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

### *Probability of Success on the Merits*

Although SVMC believes that it will prevail in the prosecution of the SVMC Claims, SMG and CHP have asserted various defenses to the SVMC Claims, and SMG and CHP have counter-claims that they could attempt to assert as setoffs to the SVMC Claims. Success on the merits in excess of the amount to be paid to SVMC under the Settlement Agreement cannot be guaranteed. As a result, this factor weighs in favor of approving the Settlement Agreement.

### *Complexity of the Litigation*

The dispute is in the pre-litigation phase. Absent settlement, additional discovery and document review will be required. Litigation of the issues would likely require the introduction of expert testimony, which would prove expensive. Consequently, this factor weighs in favor of approving the Settlement Agreement.

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*Paramount Interests of Creditors*

No creditors have objected to the Settlement Agreement, and the Settlement Agreement provides a recovery of \$450,000 for the estates. This factor weighs in favor of approving the Settlement Agreement.

*Difficulties to Be Encountered in the Matter of Collection*

This factor does not apply.

**III. Conclusion**

Based upon the foregoing, the Settlement Agreement is **APPROVED** and the Motion is **GRANTED** in its entirety. The Debtors shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**#7.00** HearingRE: [5129] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And Motion To Reject, Pursuant To 11 U.S.C. § 365(a), Risk-Sharing Agreement With Healthcare LA; Memorandum Of Points And Authorities And Declaration Of Richard G. Adcock In Support Thereof

Docket 5129

**Tentative Ruling:**

8/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Risk-Sharing Agreement with Healthcare LA [Doc. No. 5129] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5118, 5119, 5120, 5124, 5125, 5128, 5129, 5130, 5131, 5133, 5135 and 5137 [Doc. No. 5334]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018, Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' case are being jointly administered.

The Debtors move to reject the *Healthcare Services Risk Sharing Agreement* dated March 1, 2013 (the "Agreement") between Debtor St. Francis Medical Center ("SFMC") and HealthCare LA (the "Group"). Under the Agreement, the Group coordinates and manages the use of hospital services delivered by SFMC to patients

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with a primary care physician at the Group, in exchange for compensation as set forth in the Agreement. Prime Healthcare Services, Inc. ("Prime"), the purchaser of SFMC, has declined the assumption and assignment of the Agreement. The Debtors assert that rejection is warranted because after the closing of the Prime Sale, the Debtors will no longer provide medical services at SFMC to patients with a primary care physician at the Group.

## **II. Findings and Conclusions**

Section 365(a) provides that the Debtors, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Castetter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreement. In view of the sale of the assets to which the Agreement pertains, the Agreement provides no benefit to the estates.

The deadline for the Group to file a proof of claim arising from the rejection of the Agreement, pursuant to Bankruptcy Rule 3002(c)(4), shall be **September 28, 2020**

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(the “Rule 3002(c)(4) Claims Bar Date”). Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by the Group by no later than **August 21, 2020**. Debtors shall file a proof of service of such notice by no later than **August 21, 2020**.

Notwithstanding the rejection of the Agreement, SVMC’s right to complete the reconciliation of the risk pools and to demand the repayment by the Group to SVMC of its share of a deficit, if any, is preserved.

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** in its entirety. The Debtors shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

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**#8.00** Hearing re [4993] Second Amended Joint Chapter 11 Plan Of Liquidation (Dated July 2, 2020) Of The Debtors, The Prepetition Secured Creditors, And The Committee

Docket 0

**Tentative Ruling:**

8/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the outstanding objections to confirmation of the Plan are **OVERRULED**, and the Plan is **CONFIRMED**.

**Pleadings Filed and Reviewed:**

- 1) Memorandum of Law in Support of Confirmation of Second Amended Joint Chapter 11 Plan (Dated July 2, 2020) of the Debtors, the Committee, and Prepetition Secured Creditors [Doc. No. 5385]
  - a) Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee [Doc. No. 4993] (the "Plan")
  - b) Disclosure Statement Describing Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee [Doc. No. 4994]
  - c) Order Granting Joint Motion for an Order Approving: (I) Proposed Disclosure Statement; (II) Solicitation and Voting Procedures; (III) Notice and Objection Procedures for Confirmation of Amended Joint Plan; (IV) Setting Administrative Claims Bar Date; and (V) Granting Related Relief [Doc. No. 4997]
  - d) Declaration of Service of Solicitation Materials [Doc. No. 5346]

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- e) Certification of Andres A. Estrada With Respect to the Tabulation of Votes on the Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee [Doc. No. 5371] (the "Voting Declaration")
- f) Notice of Certain Plan Supplements to the [Plan] [Doc. No. 5443]
- 2) Confirmation Objections:
  - a) Objection of Cigna Entities to [Plan] [Doc. No. 5231]
    - i) Notice of Resolution of Objection of Cigna Entities to [Plan] [Doc. No. 5396]
  - b) Creditor Seoul Medical Group Inc.'s Notice of Reservation of Rights to Objection to the Debtors' Confirmation of Their [Plan] [Doc. No. 5268]
  - c) Toyon Associates, Inc.'s Limited Objection to Confirmation [Doc. No. 5281]
    - i) Toyon Associates, Inc.'s Objection to Debtors' Evidence in Support of Confirmation [Doc. No. 5407]
  - d) Limited Objection and Reservation of Rights of Infor (US), Inc. with Respect to [the Plan] [Doc. No. 5282]
  - e) Objection of Strategic Global Management, Inc. to Confirmation of [Plan] [Doc. No. 5288]
    - i) Strategic Global Management, Inc.'s Response to "Memorandum of Law in Support of Confirmation of the [Plan]" [Doc. No. 5448]
    - ii) Notice of Administrative Expense Claim [filed by SGM] [Doc. No. 5197]
  - f) Objection of Health Net of California, Inc. to Confirmation of Plan [Doc. No. 5292]
  - g) Objection of California Attorney General to Confirmation of [Plan] [Doc. No. 5294]
  - h) UnitedHealthcare Ins. Company's Objection to Confirmation [Doc. No. 5326]
  - i) Limited Objection of SCAN Health Plan to Confirmation of Plan [Doc. No. 5337]
  - j) Applecare Medical Group, Inc., Applecare Medical Group St. Francis, Inc., and Applecare Medical Management, LLC's Objection to Confirmation of [Plan] [Doc. No. 5339]
    - i) AppleCare Medical Group, Inc., AppleCare Medical Group, St. Francis Inc., and AppleCare Medical Management LLC's Amended Motion for Allowance of an Administrative Expense Claim [Doc. No. 5445]
  - k) GRM Information Management Services Inc.'s Limited Objection to Plan [Doc. No. 5341]

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- l) Long Beach Memorial Medical Center's Limited Objection to Confirmation of [Plan] [Doc. No. 5342]
- m) Objection of Premier, Inc. to Confirmation of [Plan] [Doc. No. 5343]
- n) Blue Shield's Conditional Joinder, Limited Objection, or Reply to Objections to Confirmation of [Plan] [Doc. No. 5417]
- 3) Reply papers:
  - a) Omnibus Reply to Certain Objections to Confirmation of [the Plan] [Doc. No. 5419]
  - b) Omnibus Reply to Certain Objections to Confirmation of [the Plan] [Doc. No. 5425]
  - c) Supplement Regarding Proposed Resolution of Objections Asserted by Certain Payors Re Confirmation of [the Plan] [Doc. No. 5455]
  - d) Debtors' (I) Request to Strike or, in the Alternative, Overrule Strategic Global Management, Inc.'s Unauthorized "Surreply" in Support of SGM's Confirmation Objection and (II) Response to Toyon Associates, Inc.'s Evidentiary Objections to the Declaration of Peter C. Chadwick in Support of the Confirmation Brief [Doc. No. 5456]
- 4) Stipulations resolving issues:
  - a) Order Approving Stipulation Among Debtors, Creditors' Committee and Aetna Life Insurance Company for Resolution of Plan Objection [Doc. No. 5350]
    - i) Stipulation Among Debtors, Creditors' Committee and Aetna Life Insurance Company for Resolution of Plan Objection [Doc. No. 5338]
  - b) Stipulation Between the Debtors and Swinerton Builders Resolving Informal Confirmation Objection [Doc. No. 5463]

## **I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain affiliated entities (collectively, the "Debtors") each filed voluntary Chapter 11 petitions. [Note 1] The Debtors' cases are being jointly administered.

Debtor VHS, a California nonprofit public benefit corporation, is the sole corporate member of the following five Debtor California nonprofit public benefit corporations that, on the Petition Date, operated six acute care hospitals: O'Connor Hospital ("OCH"), Saint Louise Regional Hospital ("SLRH"), St. Francis Medical Center ("SFGMC"), St. Vincent Medical Center ("SVMC"), Seton Medical Center

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("SMC"), and Seton Medical Center Coastside ("Seton Coastside" and, together with OCH, SLRH, SFMC, and SVMC, the "Hospitals"). SMC and Seton Coastside (collectively, "Seton") operated under one consolidated acute care hospital license.

As of the Petition Date, VHS, the Hospitals, and their affiliated entities (collectively, the "Verity Health System") operated as a nonprofit health care system in California, with approximately 1,680 inpatient beds, six active emergency rooms, a trauma center, and a host of medical specialties, including tertiary and quaternary care. In 2017, the Hospitals provided medical services to over 50,000 inpatients and 480,000 outpatients.

On June 16, 2020, the Debtors, the Official Committee of Unsecured Creditors (the "Committee"), and the Prepetition Secured Creditors [**Note 2**] (collectively, the "Plan Proponents") filed the *Amended Joint Chapter 11 Plan of Liquidation (Dated June 16, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* [Doc. No. 4879] (the "Plan") and an accompanying disclosure statement [Doc. No. 4880] (the "Disclosure Statement"). On July 2, 2020, the Court entered an order (1) approving the Disclosure Statement as containing adequate information and (2) establishing solicitation and voting procedures. Doc. No. 4997.

**A. The Debtors' Prepetition Capital Structure**

VHS, Verity Business Services ("VBS"), and the Hospitals are jointly obligated parties on approximately \$461.4 million of outstanding secured debt, consisting of:

- 1) \$259.4 million outstanding tax exempt revenue bonds, loaned to provide funds for capital improvements and to refinance certain tax exempt bonds previously issued in 2001 (the "2005 Revenue Bonds"); and
- 2) \$202 million outstanding tax exempt revenue notes, issued in 2015 (the "2015 Revenue Notes") and 2017 (the "2017 Revenue Notes"), loaned for working capital purposes.

Verity Holdings, LLC ("Holdings") was created in 2016 to hold and finance the Debtors' interests in six medical office buildings whose tenants are primarily physicians and other practicing medical groups. Holdings is the borrower of approximately \$66 million through two series of non-recourse financing secured by separate deeds of trust and revenue and accounts pledges, including lease rents on each medical building, pursuant to the Medical Office Building ("MOB") I Loan Agreement with Verity MOB Financing LLC ("MOB I") and MOB II Loan

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Agreement with Verity MOB Financing II LLC ("MOB II") (collectively, the "MOB Financings").

**B. The Failed SGM Sale and Related Litigation**

On May 2, 2019, the Court entered an order authorizing the Debtors to sell SFMC, SVMC, and Seton to Strategic Global Management, Inc. ("SGM"). *See* Doc. No. 2306 (the "SGM Sale Order"). Pursuant to the Asset Purchase Agreement approved in connection with the SGM Sale (the "SGM APA"), SGM made a good-faith deposit of \$30 million (the "Deposit").

On November 27, 2019, the Court entered a memorandum of decision and accompanying order rejecting SGM's allegation that the Debtors had failed to comply with certain of the conditions and obligations imposed upon them by the SGM APA, and that these alleged failures to perform had resulted in a Material Adverse Effect which relieved SGM of its obligation to close the SGM Sale. *See* Bankr. Doc. Nos. 3723 (the "Material Adverse Effect Memorandum") and 3724 (the "Material Adverse Effect Order"). The Court stated: "Article 1.3 [of the SGM APA] obligates SGM to close the sale 'promptly but no later than ten (10) business days following the satisfaction' of all conditions precedent. As all conditions precedent were satisfied on November 19, 2019, SGM is obligated to close the sale by no later than December 5, 2019." Material Adverse Effect Memorandum at 7. The Material Adverse Effect Order provided in relevant part: "Pursuant to § 1.3 of the APA, SGM is obligated to close the SGM Sale by no later than December 5, 2019." Material Adverse Effect Order at ¶ 1.

On December 3, 2019, SGM appealed the Material Adverse Effect Order, along with two other orders pertaining to the SGM Sale (the "Appeals," and the orders appealed, the "Appealed Orders"). SGM did not close the SGM Sale on December 5, 2019, or thereafter. The Debtors terminated the SGM APA, effective as of December 27, 2019. *See* Doc. No. 3899.

On May 14, 2020, the District Court dismissed the Appeals as moot. *See* Case No. 2:19-cv-10352-DFS, Doc. No. 59. On June 11, 2020, the District Court vacated the Appealed Orders. *See* Case No. 2:19-cv-10352-DFS, Doc. No. 65. On July 8, 2020, the Debtors appealed the vacatur of the Appealed Orders to the Ninth Circuit. *See* Case No. 2:19-cv-10352-DFS, Doc. No. 66.

On January 3, 2020, the Debtors commenced an adversary proceeding (the "Adversary Proceeding") against SGM and others, alleging, *inter alia*, breaches of the SGM APA and promissory fraud. On March 5, 2020, the District Court withdrew the

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reference to the Adversary Proceeding. *See* Case No. 2:20-cv-00613-DSF, Doc. No. 23.

On July 10, 2020, SGM filed a counterclaim against the Debtors (the "SGM Counterclaim"). *See* Case No. 2:20-cv-00613, Doc. No. 41. Among other things, the SGM Counterclaim alleges that the Debtors (1) breached the SGM APA by failing to properly maintain the hospitals and (2) wrongfully retained the Deposit.

On August 4, 2020, the District Court held that the Debtors' First Amended Complaint against SGM and others stated claims upon which relief could be granted. *See* Case No. 2:20-cv-00613, Doc. No. 56.

**C. Summary of the Plan**

**1. General Overview**

The Plan implements a comprehensive compromise among the holders of the Secured 2005 Revenue Bond Claims, the Debtors, and the Committee. In return for the agreement by the holders of the Secured 2005 Revenue Bond Claims to accept a partial payment of their claims on the Effective Date, the Debtors will dismiss with prejudice litigation commenced by the Committee for the benefit of the Debtors against the Prepetition Secured Creditors, and waive preserved claims against Verity MOB Financing LLC and Verity MOB Financing II LLC.

The Plan creates a Liquidating Trust to collect and liquidate the Debtors' remaining assets. Holders of the Secured 2005 Revenue Bond Claims will receive a cash payment of approximately \$124.2 million on the Effective Date (equal to roughly half the amount of the allowed claims). The remaining amount of the Secured 2005 Revenue Bond Claims will be satisfied through First Priority Trust Beneficial Interests to be issued by the Liquidating Trust. It is anticipated that the Allowed Secured 2005 Revenue Bond Claims will be paid in full.

As a result of the willingness of the holders of the Secured 2005 Revenue Bond Claims to receive a deferred payment of a portion of their claims, the Debtors will have sufficient cash on hand to pay on the Effective Date all allowed Administrative Claims and all other allowed secured claims.

The claims of holders of Allowed General Unsecured Claims will be satisfied through Second Priority Trust Beneficial Interests to be issued by the Liquidating Trust. It is anticipated that holders of Allowed General Unsecured Claims will receive a recovery of approximately 0.5%.

The Plan deems the Debtors substantively consolidated for the purposes of claim allowance and distribution, which treats the Debtors' assets and liabilities as if they

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were pooled without actually merging the Debtor entities.

2. The Plan's Classification Structure

The following table sets forth the Plan's classification structure:

<b>Class</b>	<b>Designation</b>	<b>Impairment</b>	<b>Entitled to Vote</b>
1A	Other Priority Claims	Not Impaired	No (deemed to accept)
1B	Secured PACE Tax Financing Claims	Not Impaired	No (deemed to accept)
2	Secured 2017 Revenue Notes Claims	Impaired	Yes
3	Secured 2015 Revenue Notes Claims	Impaired	Yes
4	Secured 2005 Revenue Bond Claims	Impaired	Yes
5	Secured MOB I Financing Claims	Impaired	Yes
6	Secured MOB II Financing Claims	Impaired	Yes
7	Secured Mechanics Lien Claims	Impaired	Yes
8	General Unsecured Claims	Impaired	Yes
9	Insured Claims	Impaired	Yes
10	2016 Data Breach Claims	Impaired	Yes
11	Subordinated General Unsecured Claims	Impaired	No (deemed to reject)
12	Interests	Impaired	No (deemed to reject)

The treatment of each class is as follows:

<b>Class</b>	<b>Designation</b>	<b>Treatment</b>
1A	Other Priority Claims	Paid in full in cash on the Effective Date

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1B	Secured PACE Tax Financing Claims	Paid in accordance with the <i>Order Approving Stipulation Resolving California Statewide Communities Development Authority Lien Release Pursuant to Proposed Sale of Certain of Debtors' Assets Related to Seton Medical Center</i> [Doc. No. 4613]
2	Secured 2017 Revenue Notes Claims	On the Effective Date, paid \$42 million plus (i) accrued but unpaid postpetition interest and (ii) accrued but unpaid reasonable, necessary out-of-pocket fees and expenses of the 2017 Notes Trustee and the Master Trustee, less certain adjustments
3	Secured 2015 Revenue Notes Claims	On the Effective Date, paid \$160 million plus (i) accrued but unpaid postpetition interest and (ii) accrued but unpaid reasonable, necessary-out-of-pocket fees and expenses of the 2015 Notes Trustee and Master Trustee, less certain adjustments
4	Secured 2005 Revenue Bond Claims	On the Effective Date, paid not less than \$124.2 million. The remainder of the claims will be satisfied through the Liquidating Trust's issuance of First Priority Beneficial Trust Interests.
5	Secured MOB I Financing Claims	On the Effective Date, paid \$46,363,095.90, plus (i) accrued but unpaid postpetition interest and (ii) accrued but unpaid reasonable, necessary out-of-pocket fees and expenses of Verity MOB Financing LLC
6	Secured MOB II Financing Claims	On the Effective Date, paid \$20,061,919.48, plus (i) accrued but unpaid postpetition interest and (ii) accrued but unpaid reasonable, necessary out-of-pocket fees and expenses of Verity MOB Financing II LLC
7	Secured Mechanics Lien Claims	Paid in full in cash on the Effective Date
8	General Unsecured Claims	Entitled to receive Second Priority Trust Beneficial Interests, which are projected to yield a recovery of approximately 0.5%



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9	Insured Claims	On the Effective Date, entitled to receive automatic relief from the automatic stay and the injunctions provided under the Plan, for the sole and limited purpose of permitting each Holder to seek recovery before a court of competent jurisdiction from the applicable and available Insurance Policies maintained by or for the benefit of any of the Debtors. To the extent that a recovery under the Insurance Policy is insufficient to satisfy the claim, or there are no available Insurance Policies, each Holder shall be entitled to an Insured Deficiency Claim, which shall be treated as an Allowed General Unsecured Claim.
10	2016 Data Breach Claims	Entitled to receive two years of credit monitoring services
11	Subordinated General Unsecured Claims	No recovery
12	Interests	No recovery

3. Voting Results

All classes entitled to vote have accepted the Plan, as set forth in the following table:

Class	Description	Ballots Cast	Percentage Accepting in Number	Percentage Accepting in Dollar Amount
2	Secured 2017 Revenue Notes Claims	1	100%	100%
3	Secured 2015 Revenue Notes Claims	7	100%	100%
4	Secured 2005 Revenue Bond Claims	264	97.73%	99.93%
5	Secured MOB I Financing Claims	1	100%	100%
6	Secured MOB II Financing Claims	1	100%	100%

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7	Secured Mechanics Lien Claims	6	100%	100%
8	General Unsecured Claims	777	94.72%	82.47%
9	Insured Claims	16	87.5%	71.43%
10	2016 Data Breach Claims	40	90%	94.01%

4. Conditions Precedent to the Effective Date

The Plan's Effective Date is the first business day after all of the following conditions have been satisfied:

- 1) An unstayed Confirmation Order shall have been entered by the Court, Plan at § 12.2(a);
- 2) The SFMC Sale shall have closed, *id.* at § 12.2(b);
- 3) The Seton Sale shall have closed, *id.* at § 12.2(c);
- 4) The Debtors shall have sufficient Cash to satisfy all payments required to be made under the Plan on the Effective Date, *id.* at § 12.2(d);
- 5) The Debtors shall have sufficient cash to fund the Liquidating Trust Reserves, *id.* at § 12.2(e); and
- 6) All documents, instruments, and agreements necessary to implement the Plan shall have been executed and delivered by the parties thereto, *id.* at § 12.2(f).

5. Post-Effective Date Governance

The following shall occur on the Effective Date:

- 1) The Committee shall be dissolved and the Post-Effective Date Committee shall be appointed. *Id.* at § 7.11(a)–(b). The Post-Effective Date Committee shall (i) consult and coordinate with the Liquidating Trustee as to the administration of the Liquidating Trust and the Liquidating Trust Assets; and (ii) consult and coordinate with the Liquidating Trustee as to the administration of the Post-Effective Date Debtors. *Id.* at § 7.11(c).
- 2) The following Debtors shall be dissolved: Verity Business Services ("VBS"), Holdings, De Paul Ventures, LLC, and De Paul Ventures—San Jose Dialysis, LLC. *Id.* at § 5.1.
- 3) The properly donor-restricted assets of the Saint Louise Regional Hospital Foundation and O'Connor Hospital Foundation shall be transferred pursuant to approvals to be received from the California Attorney General.

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*Id.* at § 5.4.

- 4) The board members of VHS shall resign and the Post-Effective Date Board of Directors of VHS shall be appointed. *Id.* at § 5.9(a). The Post-Effective Date Board of Directors shall oversee the Liquidating Trustee in his or her capacity as president of the Post-Effective Date Debtors consistent with the terms of this Plan. *Id.* at § 5.9(b).

After the Effective Date, the following Debtors shall continue in existence: SFMC and Seton (the "Sale-Leaseback Debtors"), SLRH and OCH (the "SCC Debtors"), SVMC, St. Vincent Dialysis, and VHS (collectively, the "Post-Effective Date Debtors"). *Id.* at § 5.8.

The Sale-Leaseback Debtors shall continue in existence for the limited purposes of (i) maintaining their rights as licensees under the SFMC and Seton Hospital Licenses so Prime and AHMC may obtain their general acute care hospital licenses from the California Department of Public Health and their hospital permits from the California State Board of Pharmacy and (ii) maintaining the respective Hospital's Medicare and Medi-Cal Provider Agreements until the changes of ownership to Prime and AHMC are approved. *Id.* at § 5.8.

SVMC, St. Vincent Dialysis, and the SCC Debtors shall continue in existence for the limited purpose of receiving Medi-Cal, Medicare, and Quality Assurance Payments. *Id.* at § 5.8(c)–(d). VHS shall continue in existence to provide support services required under various interim agreements entered into by the Debtors to facilitate the Prime Sale and the AHMC Sale. *Id.* at § 5.8(e).

From and after the Effective Date, the Liquidating Trust may use and dispose of Liquidating Trust Assets, and take any of the actions consistent with the Plan and/or the Liquidating Trust Agreement without approval of the Court and free of the restrictions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules, provided that the Liquidating Trust will be administered so that it qualifies as a liquidating trust under 26 C.F.R. § 301.7701–4(d). *Id.* at § 6.4. The Liquidating Trustee shall be selected by the Committee with the consent of the Master Trustee, such consent not be unreasonably withheld. *Id.* at § 6.5(a).

Unless and until the First Priority Trust Beneficial Interests are paid in full, any decisions of the Liquidating Trustee to settle, compromise, affect, waive, or release any rights of the Liquidating Trust in any assets having a nominal value of \$50,000 or more shall require the consent of the Master Trustee, which consent may be withheld in its sole discretion. *Id.* at § 6.5(c).

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The Liquidating Trustee is not permitted to distribute the Deposit to creditors or take any other action which would reduce or dissipate the Deposit, unless permitted by an unstayed judgment or order entered by the District Court having jurisdiction over the Adversary Proceeding.

6. Treatment of Administrative Claims Other than Professional Claims

The Plan's provisions pertaining to the treatment of Administrative Claims, other than Professional Claims, are as follows:

Each Holder of an Allowed Administrative Claim shall be paid in full in Cash on the Effective Date, unless the Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of business after the Petition Date, in which case the Holder shall be paid in the ordinary course of business. *Id.* at § 2.1. If the Administrative Claim has not been Allowed on the Effective Date, the Holder shall receive payment from the Administrative Claims Reserve. *Id.*

The Administrative Claims Reserve shall be established on the Effective Date in an amount determined by the Bankruptcy Court in order to satisfy all Administrative Claims that have not been Allowed as of the Effective Date and all Allowed Administrative Claims that will be paid after the Effective Date. *Id.* at § 15.3. In the event that the Debtors, the Liquidating Trustee, or the Master Trustee objects to an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim. *Id.*

All Administrative Claims that become Allowed after the Effective Date shall be paid solely from the Administrative Claims Reserve, and shall not constitute a claim against the Liquidating Trust, the Liquidating Trustee, or any of the Liquidating Trust Assets. *Id.* No Holder of an Administrative Claim shall have recourse for any deficiency in the payment of its Administrative Claim against any of the Released Parties, the Post-Effective Date Debtors, the Post-Effective Date Board of Directors, the Liquidating Trustee, the Post-Effective Date Committee, or the Liquidating Trust. *Id.*

7. Treatment of Professional Claims

The Plan requires all Professionals seeking an award on account of a Professional Claim, other than Ordinary Course Professionals, to file final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by no later than sixty days after the Effective Date. *Id.* at § 2.2. Professionals

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shall receive Cash in an amount equal to 100% of the amount of their Allowed Professional Claim. *Id.*

8. Exculpation Clause

The Plan contains an exculpation clause applicable to any "Released Party," defined as "the Estates, the Debtors, the Committee, the members of the Committee, the Indenture Trustees and their affiliates, and each current and/or former member, manager, officer, director, employee, counsel, advisor, professional, or agents of each of the foregoing who were employed or otherwise serving in such capacity before or after the Petition Date." *Id.* at § 1.147. The exculpation clause provides:

To the maximum extent permitted by applicable law, each Released Party shall not have or incur any liability for any act or omission in connection with, related to, or arising out of the Chapter 11 Cases (including, without limitation, the filing of the Chapter 11 Cases), the marketing and the sale of Assets of the Debtors, the Plan and any related documents (including, without limitation, the negotiation and consummation of the Plan, the pursuit of the Effective Date, the administration of the Plan, or the property to be distributed under the Plan), or each Released Party's exercise or discharge of any powers and duties set forth in the Plan, except with respect to the actions found by Final Order to constitute willful misconduct, gross negligence, fraud, or criminal conduct, and, in all respects, each Released Party shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. Without limitation of the foregoing, each such Released Party shall be released and exculpated from any and all Causes of Action that any Person is entitled to assert in its own right or on behalf of any other Person, based in whole or in part upon any act or omission, transaction, agreement, event or other occurrence in any way relating to the subject matter of this Section.

*Id.* at § 13.7.

"Causes of Action" means

any and all present or future claims, rights, legal and equitable defenses, offsets, recoupments, actions in law or equity or otherwise, choses in action, obligation, guaranty, controversy, demand, action suits, damages, judgments,

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third-party claims, counter-claims, cross-claims against any Person, whether known or unknown, liquidated or unliquidated, foreseen or unforeseen, existing or hereafter arising, whether based on legal or equitable relief, whether arising under the Bankruptcy Code or federal, state, common, or other law or equity, whether or not the subject of a pending litigation or proceedings on the Effective Date or thereafter, including without limitation: (a) all Avoidance Actions; (b) all other claims in avoidance, recovery, and/or subordination; (c) all SGM Claims; (d) all claims against Integrity Healthcare, LLC and BlueMountain Capital Management LLC; and (e) all other actions described in the Disclosure Statement, the Confirmation Order, the Schedules, or the Plan; provided, however, (x) any claims arising under the Interim Agreements and (y) any claims or other litigation compromised as part of a Creditor Settlement Agreement, are, in each case, excluded.

*Id.* at § 1.30.

**D. Summary of Unresolved Confirmation Objections and the Debtors' Responses Thereto [Note 3]**

**SGM Objection**

SGM asserts an Administrative Claim in the minimum amount of \$45.2 million, consisting of the \$30 million Deposit, accrued interest on the Deposit in the estimated amount of \$6.2 million, professional fees incurred in connection with defending against the Adversary Proceeding in the estimated amount of \$4 million, professional fees incurred in prosecuting the SGM Counterclaim in the estimated amount of \$2 million, and other out-of-pocket costs and professional fees incurred in connection with the SGM APA in the estimated amount of \$3 million.

SGM makes the following objections to confirmation of the Plan:

- 1) The Plan is not feasible because there is no indication that the Administrative Claims Reserve includes sufficient funding for SGM's administrative claim.
- 2) The Plan violates § 1129(a)(9) because it provides that SGM's administrative claim can be satisfied only from the Administrative Claims Reserve, and bars SGM from asserting a claim against the Liquidating Trust Assets in the event the Administrative Claims Reserve is not

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- sufficient to satisfy SGM's claim.
- 3) The Plan bars SGM from seeking disgorgement of Professional Claims in the event that the Administrative Claims Reserve is inadequate to satisfy SGM's administrative claim. The Plan thus impermissibly discriminates against SGM since it provides that Professional Claims will be paid in full but leaves open the possibility that SGM's administrative claim may not be paid in full.
  - 4) The Plan improperly eliminates SGM's setoff and recoupment rights against the Debtors, which could prejudice SGM's ability to defend itself in the Adversary Proceeding and prosecute the SGM Counterclaim.

Debtors respond to SGM's confirmation objection as follows:

- 1) Because SGM's alleged Administrative Claim is not yet allowed, the Debtors are not required to set aside cash in the Administrative Claims Reserve sufficient to satisfy the full amount of the claim as alleged by SGM. Instead, the Court can assess the Plan's feasibility by estimating the amount of SGM's Administrative Claim. The Debtors have agreed to set aside the entirety of the \$30 million Deposit. The reserve of the Deposit is more than sufficient—for example, even if SGM had a 50% chance of success, the value of the SGM Counterclaim is only \$17.28 million, just over half the amount reserved by the Debtors.
- 2) SGM lacks standing to object to Plan provisions concerning setoff and recoupment. SGM does not have a right of setoff because it has no prepetition claims, and § 553(a) only preserves prepetition claims. SGM's contention that the Plan's provisions cutting off recoupment rights are intended to prejudice its ability to assert the SGM Counterclaim or defend itself in the Adversary Proceeding is mistaken. The Plan provision cutting off recoupment rights applies only to a "Claim," defined in the Plan to refer to a prepetition claim only. The provision does not apply to SGM's alleged Administrative Claim.
- 3) The Plan's bar upon the disgorgement of Professional Claims is permissible. Courts have held that the Bankruptcy Code does not authorize the disgorgement of professional fees upon insolvency. *See In re Santa Fe Med. Grp., LLC*, 557 B.R. 223, 227 (Bankr. D.N.M. 2016) and *In re Home Loan Serv. Corp.*, 533 B.R. 302, 304–05 (Bankr. N.D. Cal. 2015).

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*Toyon Objection*

Similar to SGM, Toyon Associates, Inc. ("Toyon") asserts that the Administrative Claims Reserve is not sufficient to satisfy Toyon's administrative claim, which Toyon asserts exceeds \$12.5 million. The Debtors state that they have reserved \$250,000 on account of Toyon's administrative claim, and that this amount is more than adequate given that Toyon's claim is unliquidated and is unlikely to succeed.

*Premier Objection*

Premier, Inc., directly and through its affiliates ("Premier") is a party to seven prepetition agreements with the Debtors (the "Premier Agreements"). Each of the Premier Agreements was assumed as part of a settlement agreement with the Debtors resolving certain financial and operating disputes between the parties [Doc. No. 2352] (the "Premier Settlement"). Premier objects to the Plan on the grounds that (1) the Plan is unclear about the source of the payment of the Debtors' obligations under the Premier Settlement; that (2) the Plan fails to specify the duration of the Post-Effective Date Debtors; and that (3) the Plan's release provisions are unduly broad.

Debtors state that the Plan is clear that that pre-Effective Date obligations, including those associated with the Premier Settlement, will be satisfied in the ordinary course of business; that the Plan specifies that the Post-Effective Date Debtors shall continue to exist until the expiration of the Interim Agreements; and that the Plan's release provisions are permissible.

*Long Beach Memorial Medical Center ("LBMMC") Objection*

LBMMC is a 453-bed hospital located in Long Beach, CA. Prior to the Petition Date, LBMMC and SFMC entered into two agreements (the "LBMMC Agreements") under which LBMMC continues to delivery ordinary course medical services to SFMC post-petition, including cardiovascular, trauma, and pediatric care services. The Plan provides for the rejection of the LBMMC Agreements.

LBMMC requests that the Debtors provide information as to whether the Liquidating Trustee will request that services be provided by LBMMC subsequent to the rejection of the LBMMC Agreements. LBMMC also objects to the general injunction in § 13.6(a), which LBMMC contends is overly broad and violates § 524(e).

Debtors state that if Prime, the purchaser of SFMC, wants transitional or post-closing services from LBMMC, then Prime will need to contract directly with



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LBMCMC for those services. Alternatively, if the Debtors so agree, the Debtors will pay for such services as a pass-through and be reimbursed for such services by Prime pursuant to the Transition Services Agreement. Debtors dispute LBMCMC's contention that the Plan's general injunction is overly broad.

HealthNet Objection

HealthNet asserts that the Plan is not feasible because the Debtors do not intend to assume and assign to Prime a Medi-Cal services agreement between SFMC and HealthNet (the "HealthNet Agreement"). HealthNet contends that assignment of the HealthNet Agreement is one of the conditions imposed by the Attorney General on the Prime Sale; that the Prime Sale cannot close because Prime intends to reject the HealthNet Agreement in violation of the Attorney General's conditions; and that accordingly the Plan is not feasible since the proceeds of the SFMC Sale are necessary to fund the Plan.

Debtors' dispute HealthNet's contention that assumption and assignment of the HealthNet Agreement to Prime is among the conditions imposed by the Attorney General. Debtors state that the condition requires only that Prime enter into an agreement with HealthNet, not that Prime accept assignment of the existing HealthNet Agreement.

AppleCare Objection

AppleCare Medical Group, Inc., AppleCare Medical Group, St. Francis Inc., and AppleCare Medical Management, LLC (collectively, "AppleCare") asserts an administrative expense claim in the amount of \$16,482,485.54 against SFMC. AppleCare argues that the Debtors have not established that the Administrative Claims Reserve contains sufficient funds to satisfy AppleCare's administrative claims.

The Debtors and AppleCare are engaged in negotiations in an attempt to consensually resolve the AppleCare Objection. *See* Doc. No. 5446. To facilitate continued negotiations, the Court will not issue a tentative ruling regarding the AppleCare Objection.

**II. Findings of Fact and Conclusions of Law**

**A. The SGM Objection is Overruled [Note 4]**

**1. The Administrative Claims Reserve is Sufficient to Satisfy SGM's Administrative Claim**

SGM argues that the Plan is not feasible because the Administrative Claims

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Reserve does not contain cash sufficient to pay the full amount of the administrative claim asserted by SGM (the "SGM Admin Claim"). SGM is mistaken.

In assessing the feasibility of the Plan, the Court must evaluate "the possibility that a potential creditor may, following confirmation, recover a large judgment against the debtor." *Sherman v. Harbin (In re Harbin)*, 486 F.3d 510, 517 (9th Cir. 2007). The Court is required to "exercise its sound discretion in considering how such litigation may affect the feasibility of any specific plan." *Id.*

Where, as here, the amount of an administrative claim has not yet been determined, the Court may estimate the amount of the claim for the purpose of determining plan feasibility. As explained by the court in *In re Adelpia Bus. Sols., Inc.*:

[W]hen estimating claims, Bankruptcy Courts may use whatever method is best suited to the contingencies of the case, so long as the procedure is consistent with the fundamental policy of Chapter 11 that a reorganization "must be accomplished quickly and efficiently." *Bittner v. Borne Chemical Co.*, 691 F.2d at 135–37; *see also, e.g., In re Brits Cotton Mktg., Inc.*, 737 F.2d 1338, 1341 (5th Cir.1984), citing 3 *Collier on Bankruptcy* ¶ 502.03, at 502–77 (15th ed.1983). Bankruptcy Courts have employed a wide variety of methods to estimate claims, including summary trial, *In re Baldwin–United Corp.*, 55 B.R. 885, 899 (Bankr.S.D.Ohio 1985), a full-blown evidentiary hearing, *In re Nova Real Estate Inv. Trust*, 23 B.R. 62, 65 (Bankr.E.D.Va.1982), and a review of pleadings and briefs followed by oral argument of counsel, *In re Lane*, 68 B.R. 609, 613 (Bankr.D.Haw.1986). In so doing, courts specifically have recognized that it is often "inappropriate to hold time-consuming proceedings which would defeat the very purpose of 11 U.S.C. § 502(c)(1) to avoid undue delay."

341 B.R. 415, 422–23 (Bankr. S.D.N.Y. 2003).

Estimation of the SGM Admin Claim is required here because awaiting the fixing or liquidation of the claim "would unduly delay the administration of the case." *Id.* at 422 (citing § 502(c)). A jury trial in the Adversary Proceeding is set to commence on November 2, 2021. *See* 2:20-cv-00613-DSF, Doc. No. 51. It is probable that any judgment entered in the Adversary Proceeding will be appealed. In all likelihood, it will take at least two years, and possibly much longer, for the SGM Admin Claim to be liquidated.

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There is no merit to SGM's contention that this Court's estimation of the SGM Admin Claim for plan feasibility purposes will usurp the District Court's exclusive jurisdiction over the Adversary Proceeding. The Court estimates the SGM Admin Claim only for the purpose of determining whether the Plan can be confirmed. Estimation of the claim has no effect whatsoever on the Adversary Proceeding. *See In re Bicoastal Corp.*, 122 B.R. 771, 775 (Bankr. M.D. Fla. 1990)("There is no question that the estimation of claims in bankruptcy does not establish a binding legal determination of the ultimate validity of a claim nor a binding determination of any issues."). Bankruptcy courts routinely estimate claims arising in connection with litigation for plan confirmation purposes, with the understanding that the ultimate amount of the claim will be determined through the underlying litigation. *See, e.g., Adelfia*, 341 B.R. at 422; *In re Spansion, Inc.*, 426 B.R. 114, 146 (Bankr. D. Del. 2010) (estimating administrative claim alleged to be \$100 million at \$4.2 million for plan confirmation purposes); *In re Chemtura Corp.*, 448 B.R. 635, 649 (Bankr. S.D.N.Y. 2011).

A time-consuming evidentiary hearing to estimate SGM's claim is not appropriate, as such a proceeding would defeat the very purpose of estimation—expeditious confirmation of the Plan. *See Adelfia*, 341 B.R. at 422. Current projections indicate that unsecured creditors will receive \$8.1 million, or only approximately 0.5% of their claims. *See* Doc. No. 4994, Ex. A. The delay arising from a protracted evidentiary hearing to estimate the SGM Admin Claim could push the estates into administrative insolvency.

The Court will estimate SGM's claim based upon its review of the pleadings and briefing filed in the Adversary Proceeding. *See Adelfia*, 341 B.R. at 422–23 (finding review of the pleadings in pending litigation to be an appropriate means of claims estimation). Having conducted such a review, the Court estimates the SGM Admin Claim to have a value of \$0. *See Harbin*, 486 F.3d at 520 n.7 (stating that the Court is not prohibited "from valuing [the] claim at zero" as long as it "exercise[s] its own judgment in reaching such a conclusion").

The SGM Counterclaim alleges that Debtors breached the SGM APA by, among other things, (1) failing to fulfill their obligation under § 8.6 to obtain an order authorizing the sale of the hospitals free and clear of certain conditions which the California Attorney General alleged he had the authority to impose; (2) failing to fulfill their obligation under § 8.7 to obtain a settlement agreement with the California Department of Healthcare Services (the "DHCS"); and (3) failing to operate the hospitals in accordance with applicable law. Based upon these alleged breaches, SGM

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contends that it is entitled to return of the Deposit plus additional damages and interest in the approximate amount of \$15.2 million.

The Court finds that SGM has only a negligible chance of prevailing upon its claims. First, SGM alleges that the Debtors breached § 8.6 by failing to obtain an order authorizing the sale free and clear of the Attorney General conditions. But on November 14, 2019, the Court entered an order providing in relevant part:

Solely and exclusively for purposes of the APA (as defined below) and the Motion, the Additional Conditions (as defined in section 8.6 of that certain asset purchase agreement [Docket No. 2305-1] (the "APA")) are an "interest in property" for purposes of 11 U.S.C. § 363(f). The Assets (as defined in the APA) are being sold free and clear of the Additional Conditions without the imposition of any other conditions which would adversely affect the Purchaser (as defined in the APA).

Doc. No. 3611 (the "Supplemental Sale Order").

The Supplemental Sale Order contained language almost identical to the language contemplated in § 8.6 of the SGM APA. Specifically, § 8.6 states that the Debtors will have satisfied the obligations imposed thereunder if they obtain "an order ... finding that the Additional Conditions are an 'interest in property' for purposes of 11 U.S.C. § 363(f), and that the Assets can be sold free and clear of the Additional Conditions without the imposition of any other conditions, which would adversely affect the Purchaser." SGM APA at § 8.6 [Doc. No. 2305-1].

SGM further alleges that the Debtors were in breach of § 8.6 because the Supplemental Sale Order was subject to an appeal at the time the Debtors demanded that SGM close the sale. Section 8.6 excused SGM from closing the sale if the Supplemental Sale Order was subject to an appeal. Its purpose was to protect SGM by insuring that once the sale had closed, there would be no possibility that the Additional Conditions could be reimposed upon the hospitals through reversal of the Supplemental Sale Order on appeal. Such a situation could occur only if the Attorney General appealed the Supplemental Sale Order, which was impossible, since the Attorney General expressly waived his right to appeal. It was never contemplated that SGM would appeal the Supplemental Sale Order, which the Debtors obtained for its benefit. In the Court's view, SGM's appeal of the Supplemental Sale Order was a cynical ploy to manufacture a frivolous excuse for failing to close the sale. For these reasons, the Court finds that SGM has little chance of prevailing upon its allegation

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that the Debtors failed to satisfy § 8.6 of the SGM APA.

Second, SGM alleges that the Debtors breached § 8.7 by failing to obtain a settlement with the DHCS. However, the Debtors obtained approval of the requisite settlement on December 9, 2019. *See* Doc. No. 3787. SGM attempts to distract attention from the Debtors' fulfillment of their obligations under § 8.7 by alleging that the Debtors improperly demanded that SGM close the sale before the documentation memorializing the DHCS settlement had been completed. This allegation is a red herring, given that SGM had ample time to close the SGM Sale after the DHCS settlement had been memorialized on December 9, 2019. SGM is not likely to prevail upon its allegation that the Debtors breached § 8.7 of the SGM APA.

Third, SGM alleges that the Debtors breached the SGM APA by failing to operate the hospitals in accordance with California law. SGM is unlikely to prevail upon this claim because the alleged operational issues would constitute a breach of the SGM APA only if they would have had a "material adverse effect" upon the transaction. The SGM APA is governed by California law, and California courts look with disfavor upon the enforcement of a "material adverse effect" clause. For example, in *1601 McCarthy Blvd., LLC v. GMAC Comm'l Mortg. Corp.*, 2005 WL 4859147 (Cal. Super. Ct. June 1, 2005), the court held that a loan servicer's invocation of a material adverse effect clause to avoid its obligation to disburse funds to a borrower was an "unfair business practice or act," because the servicer "used the material adverse change clause as a lever against [the borrower] to retain control over the borrower's ... funds." *McCarthy Blvd.*, 2005 WL 4859147 at \*¶ 59. The court found:

[L]enders rarely employ—and even less frequently invoke and enforce—this type of broad-based material adverse change clause in commercial real estate transactions.... And even when they are invoked, ... lenders only use the clause as a tool to "bring the borrower to the table, use it as lever against the borrower, or ... a club against the borrower to modify the loan or change the loan." There is no evidence in the record that the material adverse change clause in the Deed of Trust benefits any side but the lender, or serves any other purpose than to threaten the borrower with dire consequences....

The record supports Mr. Greenwald's opinion that broad-based material adverse change clauses are rarely used, and in those rare instances when they are, they are placed in deeds of trust purely for their in terrorem effect and not with any genuine intention to invoke them.

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*Id.* at ¶¶ 59 and 68.

Although the SGM APA is governed by California law, Delaware cases interpreting material adverse effect clauses are helpful persuasive authority. A significant amount of the litigation over the enforcement of asset purchase agreements occurs before Delaware courts, and the Delaware caselaw interpreting material adverse effect clauses is well developed.

In *In re IBP, Inc. Shareholders Litigation*, the court rejected purchaser Tyson Foods' claim that it was not required to consummate a merger because of a material adverse effect. The court held:

[A] buyer ought to have to make a strong showing to invoke a Material Adverse Effect exception to its obligation to close. Merger contracts are heavily negotiated and cover a large number of specific risks explicitly. As a result, even where a Material Adverse Effect condition is as broadly written as the one in the Merger Agreement, that provision is best read as a backstop protecting the acquiror from the occurrence of unknown events that substantially threaten the overall earnings potential of the target in a durationally-significant manner. A short-term hiccup in earnings should not suffice; rather the Material Adverse Effect should be material when viewed from the longer-term perspective of a reasonable acquiror.

*In re IBP, Inc. Shareholders Litig. (IBP, Inc. v. Tyson Foods, Inc.)*, 789 A.2d 14, 68 (Del. Ch. 2001).

In *Hexion Specialty Chemicals, Inc. v. Huntsman Corp.*, 965 A.2d 715, 738 (Del. Ch. 2008), the court reiterated that a "buyer faces a heavy burden when it attempts to invoke a material adverse effect clause in order to avoid its obligation to close."

In view of the difficult of showing a "material adverse effect," SGM is not likely to prevail upon its claim that the Debtors breached the SGM APA by failing to operate the hospitals in accordance with applicable law.

The Debtors have agreed to set aside the \$30 million Deposit pending further order of the District Court. Given the Court's estimation of SGM's Admin Claim at \$0, the reserve of the Deposit is more than sufficient. SGM's objection regarding the adequacy of the Administrative Claims Reserve is overruled.

2. SGM's Objection to Plan § 10.5(b) is Without Merit

SGM asserts that § 10.5(b) of the Plan purports to limit the amount of SGM's

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Admin Claim to the amount estimated by the Court. SGM misreads § 10.5(b).

Section 10.5(b) does not apply to administrative claims. That section addresses the "Estimation of Disputed Claims," and "Disputed" describes "Claims" that are either scheduled or with respect to which a proof of claim has been filed. Plan at § 1.58. The Plan does not incorporate the definition of "Claim" into its definition of "Administrative Claim"; instead, the Plan defines an "Administrative Claim" as a "[r]equest for Payment of an administrative expense of a kind specified in § 503(b) and entitled to priority pursuant to § 507(a)(2) ...." *Id.* at § 1.13.

To be clear, the Court's estimation of the SGM Admin Claim is made only for the purposes of determining plan feasibility under § 1129(a)(9). The estimate does not prevent the SGM Admin Claim from being allowed at a higher amount in the future.

3. The Plan's Exculpation Clause is Appropriate

SGM asserts that the Exculpation Clause violates § 524(e) by providing a discharge to non-debtor parties. The Court disagrees.

In *Blixseth v. Credit Suisse*, the Ninth Circuit approved an exculpation clause providing that parties involved in the negotiation and implementation of the plan would not be liable for acts undertaken during the case. 961 F.3d 1074, 1078–79 (9th Cir. 2020). The court held that the bankruptcy court "had the authority to approve an exculpation clause intended to trim subsequent litigation over acts taken during the bankruptcy proceedings and so render the Plan viable." *Blixseth*, 961 F.3d at 1084.

Here, the language of the Exculpation Clause is very similar to that of the clause approved in *Blixseth*. The Exculpation Clause applies only to those parties who have been heavily involved in these cases and in the negotiation of the Plan, and applies only with respect to acts taken during the cases. The Exculpation Clause was a necessary component of the compromise that resulted in the Plan. The Exculpation Clause is appropriate and does not run afoul of § 524(e).

4. The Plan's Treatment of Professional Claims is Appropriate

SGM argues that the Plan impermissibly prioritizes Professional Claims by limiting any recovery on the SGM Admin Claim to the Administrative Claims Reserve, and barring SGM from seeking the disgorgement of Professional Claims if the Administrative Claims Reserve proves inadequate. SGM is incorrect.

The cases cited by SGM are not on point, because they discuss disgorgement in the context of a Chapter 11 case that has been converted to Chapter 7. Even if the cases did apply, there is a split of authority as to whether disgorgement of professional

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fees may be ordered upon administrative insolvency. In the Court's view, the better-reasoned approach is that disgorgement is not permitted. As explained in *In re Home Loan Serv. Corp.*:

There is nothing .... requiring, or even suggesting, disgorgement of earned and paid chapter 11 expenses solely in order to pay chapter 7 administrative expenses in full. One recent bankruptcy case held that disgorgement based solely on administrative insolvency is not permitted under § 726(b). *See In re Headlee Management Corp.*, 519 B.R. 452 (Bankr.S.D.N.Y.2014). In reaching this conclusion, the *Headlee* court noted that § 726 simply does not provide a remedy for the situation in which professional fees have been paid in a chapter 11 case prior to conversion. The *Headlee* court specifically declined to read a disgorgement remedy into the statute, particularly since sections 549 and 330 did not offer a disgorgement remedy in this situation. *Id.* at 458–59.

533 B.R. 302, 304–05 (Bankr. N.D. Cal. 2015).

The facts of *In re Montgomery Ward Holding Corp.*, 306 B.R. 489 (Bankr. D. Del. 2004) are more analogous to the present situation than the cases discussing disgorgement in the context of a Chapter 11 case that has been converted to Chapter 7. In *Montgomery Ward*, the plan confirmed by the court provided that all administrative claims which became allowed after the plan's effective date would be paid only from assets revested in New Retailer, an entity created by the plan. *Id.* at 492–93. The assets held by New Retailer proved inadequate to satisfy the administrative claim of CenterPoint, a creditor whose administrative claim became allowed several years after the plan was confirmed. *Id.* The court held that CenterPoint's administrative claim could not be satisfied through either the disgorgement of previously-awarded professional fees or from a reserve that had been set aside to pay unsecured creditors. *Id.* at 492–95. The court reasoned that upon confirmation the plan became a legally-binding agreement, and that CenterPoint remained bound by its terms, notwithstanding the fact that its administrative claim would remain unsatisfied. *Id.*

As discussed above, it is exceptionally unlikely that SGM will be able to establish that it is entitled to an administrative claim, and even less likely that SGM will be able to show entitlement to an administrative claim of \$45.2 million. The small chance that SGM will prevail upon the SGM Counterclaim does not render impermissible the Plan's provisions limiting satisfaction of the SGM Admin Claim to the Administrative Claims Reserve and barring SGM from seeking disgorgement from other estate



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professionals in the event the Administrative Claims Reserve proves insufficient. To obtain confirmation, the Debtor is required only to show that the Plan "offers a reasonable prospect of success and is workable.... The prospect of financial uncertainty does not defeat plan confirmation on feasibility grounds since a guarantee of the future is not required.... The mere potential for failure of the plan is insufficient to disprove feasibility." *Mutual Life Ins. Co. of N.Y. v. Patrician St. Joseph Partners Ltd. P'ship (In re Patrician St. Joseph Partners Ltd. P'ship)*, 169 B.R. 669, 674 (D. Ariz. 1994). The Debtors have easily surpassed the threshold of showing that the Plan is feasible. The remote possibility that the Administrative Claims Reserve could prove inadequate cannot defeat confirmation. There always exists some possibility that the assets reserved to pay claims will prove insufficient, as was the case in *Montgomery Ward*.

5. SGM's Objection to the Plan's Setoff and Recoupment Provisions is Overruled

SGM asserts that § 13.6 of the Plan improperly eliminates the setoff and recoupment rights of creditors. SGM fears that § 13.6 will prejudice its ability to defend itself in the Adversary Proceeding and prosecute the SGM Counterclaim.

SGM's fear is unfounded and is based upon a misreading of the Plan. The provision to which SGM objects prohibits "Persons that have held, currently hold or may hold a Claim against the Debtors" from "asserting any setoff, right of subrogation or recoupment of any kind, directly or indirectly, against any debt, liability or obligation due to the Debtors, the Post-Effective Date Debtors or the Liquidating Trust with respect to a Claim ...." (emphasis added). As discussed in Section II.A.2, above, the term "Claim" does not encompass the SGM Admin Claim. The Plan's setoff and recoupment provisions will therefore have no effect upon SGM's ability to defend itself in the Adversary Proceeding or prosecute the SGM Counterclaim. SGM's objection to these provisions is overruled.

B. The Toyon Objection is Overruled

Toyon contends that the Plan is not feasible because the Administrative Claims Reserve is not sufficient to satisfy its administrative claim, which Toyon asserts is in excess of \$12.5 million (the "Toyon Admin Claim").

Toyon has been retained as an ordinary course professional (an "OCP") to pursue on behalf of the Debtors appeals intended to increase the Medicare reimbursements owed to the Debtors. In the declaration it filed in support of its application for retention as an OCP (the "Retention Application"), Toyon stated:

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For the Appeal Services described above, the Firm is paid a contingency of the total additional reimbursement paid to the hospital resulting from the successful pursuit of appeal issues. With respect to appeals, no fees or expenses are paid to Toyon unless the appeal or reopening results in additional reimbursement to the hospital.

Doc. No. 900 at ¶ 6.

In connection with stipulations necessary to facilitate the sale of certain of the Debtors' hospitals, the Debtors withdrew many of the appeals that Toyon had been pursuing. Notwithstanding the fact that these withdrawn appeals did not yield an infusion of cash into the estates, Toyon asserts that the appeals nonetheless provided value because they enhanced the Debtors' bargaining leverage, thereby increasing the proceeds that the estates received from the disposition of these assets.

The Debtors have set aside \$250,000 in the Administrative Claims Reserve for the Toyon Admin Claim. As discussed in Section II.A.1, above, the Court may estimate the value of the Toyon Admin Claim for plan feasibility purposes. The Court estimates the Toyon Admin Claim at no more than \$250,000. The amount reserved by the Debtors for Toyon's claim is sufficient.

In arriving at this estimate, the Court relies upon the Declaration of Peter C. Chadwick, the Debtors' Chief Financial Officer and a managing director at Berkeley Research Group. Toyon objects to Chadwick's testimony on the ground that it offers an opinion on an ultimate issue of law (the amount which Toyon will recover on account of its administrative claim) and on the ground that it lacks foundation. Toyon's objections are overruled. As the Debtors' CFO, Chadwick is qualified to testify as to his estimate of the amount of the Toyon Admin Claim that will ultimately be allowed. Such testimony does not constitute an opinion as to an ultimate issue of law. Instead, the testimony is an estimate regarding the monetary amount of the estate's litigation exposure, which falls within the scope of Chadwick's expertise as CFO.

The Court has also assessed the arguments asserted by Toyon in concluding that the Toyon Admin Claim has an estimated value of \$250,000. A substantial portion of the administrative claim to which Toyon asserts it is entitled is based upon work performed in connection with appeals which were withdrawn (the "Withdrawn Appeals"). Toyon contends it is entitled to \$3,829,235.85 for Withdrawn Appeals pertaining to OCH and SLRH, \$5,912,340.60 for Withdrawn Appeals pertaining to

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Seton, and \$2,273,553.45 for Withdrawn Appeals pertaining to SFMC.

As set forth above, Toyon recognized in the Retention Application that it would not be paid unless its appeals resulted in additional reimbursement to the hospitals. Therefore, it is not likely that Toyon will be able to show that it is entitled to an administrative claim for work performed in connection with the Withdrawn Appeals. Recognizing this impediment, Toyon alleges that the Withdrawn Appeals nonetheless provided value by enhancing the Debtors' bargaining leverage in connection with the sales. This argument is not likely to be successful because purchasers, recognizing that Medicare appeals are time-consuming and frequently unsuccessful, attribute little to no value to pending appeals when bidding for hospitals.

The Court finds that the \$250,000 reserved for the Toyon Admin Claim is sufficient for plan feasibility purposes. The Toyon Objection is overruled.

**C. The HealthNet Objection is Overruled**

HealthNet asserts that the Plan is not feasible because the Debtors do not intend to assume and assign to Prime a Medi-Cal services agreement between SFMC and HealthNet (the "HealthNet Agreement"). HealthNet contends that assignment of the HealthNet Agreement is one of the conditions imposed by the Attorney General on the Prime Sale; that the Prime Sale cannot close because Prime intends to reject the HealthNet Agreement in violation of the Attorney General's conditions; and that accordingly the Plan is not feasible since the proceeds of the SFMC Sale are necessary to fund the Plan.

HealthNet's assertion that assignment of the HealthNet Agreement is among the conditions imposed by the Attorney General is not correct. The relevant condition provides:

For ten years from the closing date of the Asset Purchase Agreement, Prime Healthcare Services, Inc. shall ... [m]aintain and have Medi-Cal Managed Care contracts with the below-listed Medi-Cal Managed Care Plans to provide the same types and levels of emergency and non-emergency services at St. Francis Medical Center to Medi-Cal beneficiaries ... as required in these Conditions, on the same terms and conditions as other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause or not extended or renewed by the Medi-Cal Managed Care Plan: ...

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(ii) Commercial Plan: Health Net Community Solutions, Inc. or its successor.

Conditions to the Sale of St. Francis Medical Center [Doc. No. 5199, Ex. B] at § IX.

This condition requires only that Prime enter into an agreement with HealthNet on the same terms and conditions as other similarly situated hospitals; it does not require that Prime retain the existing HealthNet Agreement. Prime is in discussions with HealthNet regarding a new agreement. Adcock Decl. at ¶ 7. Contrary to HealthNet's contention, Prime's rejection of the *existing* HealthNet Agreement does not run afoul of the Attorney General's conditions, because Prime intends to have in place a *new* agreement with HealthNet prior to the closing of the sale.

**D. The Premier Objection is Overruled**

Premier questions whether the Plan adequately provides for the payments Premier is owed under the Premier Settlement. The Debtors have included an additional \$200,000 in the Administrative Claims Reserve for "Ordinary Course Creditors" on account of Premier. The Court finds that this amount is sufficient to satisfy the Debtors' obligations under the Premier Settlement.

Next, Premier asserts that the Plan does not specify the duration of the Post-Effective Date Debtors. Premier is incorrect. The Disclosure Statement sets forth the duration of the Post-Effective Date Debtors as follows:

The Sale-Leaseback Debtors, SVMC, St. Vincent Dialysis, the SCC Debtors, and VHS (together, the "Post-Effective Date Debtors") shall continue to exist after the Effective Date of the Plan (i) with the Sale-Leaseback Debtors existing until the expiration of the Interim Agreements so that they may engage in the transition tasks set forth in Section 5.8 of the Plan, and (ii) with the SCC Debtors existing until all Quality Assurance Payments are collected. The primary transaction task (i) for the Sale-Leaseback Debtors involves the Interim Agreements, and (ii) for the SCC Debtors involves remitting Quality Assurance Payments received after the Effective Date to the Liquidating Trust.

Disclosure Statement at 80.

Finally, Premier objects to the Plan's general releases. For the reasons discussed in Section II.A.3, above, the Plan's releases are appropriate, and Premier's objection to

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the releases is overruled.

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**E. The LBMMC Objection is Overruled**

LBMMC's objection consists primarily of requests for clarification regarding certain Plan provisions. The Debtors have sufficiently responded to these requests for clarification in their reply to the LBMMC Objection.

LBMMC also objects to the Plan's general releases. For the reasons discussed in Section II.A.3, above, the Plan's releases are appropriate, and Premier's objection to the releases is overruled.

**F. The Remaining Objections Are Moot or Have Been Resolved**

The Court finds that objections asserted by UnitedHealthcare Ins. Co., SCAN Health Plan, Blue Shield, and Humana have been resolved by the Debtors' agreement to include additional language in the Confirmation Order. *See* Doc. No. 5455.

The objection asserted by Aetna Life Insurance Company has been resolved by a stipulation [Doc. No. 5338] that has been approved by the Court [Doc. No. 5350]. The objection asserted by the Cigna Entities [Doc. No. 5231] has been resolved by the filing of the *Notice Re Irrevocable Designation Concerning Assumption and Assignment of Cigna Contracts* [Doc. No. 5370]. *See* Doc. No. 5396 (Cigna's notice stating that its objection has been resolved).

The Reservation of Rights asserted by Seoul Medical Group, Inc. ("Seoul") [Doc. No. 5268] is moot given the concurrently-issued ruling to approve the settlement agreement to which Seoul is a party.

The objection of GRM Information Management Services, Inc. ("GRM") to the adequacy of the Administrative Claims Reserve has been resolved by the Debtors' agreement to set aside \$2 million in the reserve on account of GRM's administrative claim. *See* Doc. No. 5425.

The Attorney General objects to the Debtors' failure to stipulate to include the following provision in the Confirmation Order:

The California Attorney General and the Debtors reserve all rights, arguments and defenses concerning the California Attorney General's authority, if any, to review the sale under California Corporations Code §§ 5914-5924 and California Code of Regulations on Nonprofit Hospital Transactions-Title 11, Chapter 15, § 999.5, and any conditions issued thereto. Notwithstanding any provision to the contrary in [the Plan or any confirmation order], nothing in the

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[Plan or any confirmation order] shall limit or be construed as a waiver of the Attorney General's statutory or regulatory authority or other rights or defenses, or a waiver of the Debtors' statutory or other rights or defenses.

Doc. No. 5294.

In a concurrently issued ruling, the Court has found that the Debtors are authorized to sell St. Francis free and clear of the regulatory obligations that the Attorney General asserts he has the authority to impose under Cal. Corp. Code §§ 5914 *et seq.* This ruling moots the Attorney General's request for a provision in the Confirmation Order that would reserve rights that the Court has found the Attorney General does not possess.

**G. The Deemed Substantive Consolidation Contemplated by the Plan is Approved**

The Plan provides for the deemed substantive consolidation of the Debtors' estates. Upon entry of a substantive consolidation order, the "consolidated assets create a single fund from which all claims against the consolidated debtors are satisfied; duplicate and inter-company claims are extinguished; and, the creditors of the consolidated entities are combined for purposes of voting on reorganization plans." *Alexander v. Compton (In re Bonham)*, 229 F.3d 750, 764 (9th Cir. 2000).

"Deemed consolidation" is a court-developed alternative to substantive consolidation. Unlike substantive consolidation, deemed consolidation does "not result in the merger of or the transfer or commingling of any assets of the Debtors ... [which] will continue to be owned by the respective Debtors." *In re Owens Corning*, 419 F.3d 195, 202 (3d Cir. 2005). In other words, substantive consolidation actually combines the debtors' assets and liabilities into a single entity, whereas deemed consolidation merely treats the assets and liabilities as if they were pooled for the purpose of creditor distributions without actually merging the debtor entities.

Deemed substantive consolidation is appropriate where (1) creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit or where (2) the affairs of the debtors are so entangled that consolidation would benefit all creditors. *Bonham*, 229 F.3d at 764. "The presence of either factor is a sufficient basis to order substantive consolidation." *Id.* at 766.

Here, both factors are satisfied. With respect to the first factor, the Debtors' secured lenders dealt with the Debtors as a single economic unit. A substantial amount of the Debtors' prepetition secured debt relates to loan and bond obligations

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on which multiple debtors are obligated. Specifically, VHS, SFMC, SVMC, SMC, and SLRH (collectively, the "Obligated Group Members") are all obligated on the 2005 Series A, G and H Revenue Bonds, the 2015 Revenue Notes, and the 2017 Revenue Notes (collectively, the "Obligated Bonds").

The Obligated Bonds imposed joint and several liability on the Obligated Group Members, and the terms of the Obligated Bonds only addressed the rights and obligations of the Obligated Group Members collectively, rather than on a hospital-by-hospital basis. Further, the Master Trust covenants for the Obligated Bond borrowings are Obligated Group-oriented and are not hospital-specific.

With respect to the second factor, the Debtors' affairs are so entangled that consolidation will benefit all creditors. The Debtors engaged in complex, prepetition intercompany transfers, which were not always booked as such, and would prove difficult and costly to unwind or reconcile. For example, VMF was historically supported by near-weekly funding from other Debtors, but these transfers were booked as direct net asset contributions rather than intercompany loans. Members of the Obligated Group transferred real estate collateral to Holdings, a non-Obligated Group member, to be used as collateral for the MOB Financing, but this transaction was not booked as an intercompany transfer.

**H. The Plan Settlement is Approved**

The Plan Proponents request that entry of the Confirmation Order constitute the Bankruptcy Court's approval, as of the Effective Date, of the Plan Settlement by and between the Debtors, the Prepetition Secured Creditors, and the Committee, pursuant to Bankruptcy Rule 9019 (the "Settlement Agreement").

The Court approves the Settlement Agreement pursuant to Bankruptcy Rule 9019. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the

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range of reasonableness.” *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Settlement Agreement is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

*Probability of Success on the Merits and Complexity of the Litigation*

These factors weigh in favor of approving the Settlement Agreement. The settlement resolves both active claims (the litigation brought by the Committee on the Debtors’ behalf challenging the validity of the liens asserted by the Prepetition Secured Creditors) and potential claims (the claims settled through the settlement’s waiver and mutual release provisions). Given the complex nature of the parties’ claims, rights, and theories, quantifying the overall probability of success is difficult. That reality supports approval of the Settlement Agreement, which enables confirmation of a Plan that will distribute funds to creditors.

Absent approval of the Settlement Agreement, the Plan would no longer work as filed. The Debtors would be required to file and solicit votes upon a completely new Plan, which would cost the estates significant time and money.

*Paramount Interests of Creditors*

This factor weighs strongly in favor of approving the Settlement Agreement. The Settlement Agreement is supported by both the Prepetition Secured Creditors and the Committee, which together comprise the overwhelming majority of the creditor body in these cases.

*Difficulties to be Encountered in the Matter of Collection*

This factor does not apply.

**I. The Plan Satisfies the Requirements of § 1129**

**SECTION 1129(A)(1)**

Section 1129(a)(1) requires that the "plan compl[y] with the applicable provisions of this title." According to the leading treatise, the "legislative history suggests that the applicable provisions are those governing the plan’s internal structure and drafting: ‘Paragraph (1) requires that the plan comply with the applicable provisions of chapter 11, such as section 1122 and 1123, governing classification and contents of a plan.’” *Collier on Bankruptcy* ¶ 1129.01[1] (16th rev’d ed.) (citing S. Rep. No. 989, 95th



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Cong., 2d Sess. 126 (1978)).

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1. Section 1122(a)

Section 1122(a) provides that "a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class." "A claim that is substantially similar to other claims may be classified separately from those claims, even though section 1122(a) does not say so expressly." *In re Rexford Props., LLC*, 558 B.R. 352, 361 (Bankr. C.D. Cal. 2016).

The Plan's classification structure complies with § 1122(a). Claims and Interests are placed in thirteen different classes based upon differences in the legal or factual nature of those Claims and Interests, and each of the Claims and Interests in a particular Class is substantially similar to the other Claims and Interests in that Class.

2. Section 1122(b)

Section 1122(b) provides that "a plan may designate a separate class of claims consisting only of ever unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience."

The Plan does not contain any convenience classes. Section 1122(b) does not apply.

3. Section 1123(a)(1)

Section 1123(a)(1) requires that a plan "designate ... classes of claims, other than claims of a kind specified in section 507(a)(2) [administrative expense claims], 507(a)(3) [claims arising during the gap period in an involuntary case], or 507(a)(8) [priority tax claims], and classes of interest." There are no involuntary gap claims because this is a voluntary chapter 11 case. The Plan appropriately classifies administrative expense claims and priority tax claims. The Plan satisfies § 1123(a)(1).

4. Section 1123(a)(2)

Section 1123(a)(2) requires that the Plan "specify any class of claims or interests that is not impaired under the Plan." The Plan specifies that Classes 1A and 1B are not impaired. The Plan satisfies § 1123(a)(2).

5. Section 1123(a)(3)

Section 1123(a)(3) requires that the Plan "specify the treatment of any class of claims or interests that is impaired under the Plan." The Plan specifies the treatment of

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the impaired classes. The Plan satisfies § 1123(a)(3).

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6. Section 1123(a)(4)

Section 1123(a)(4) requires that the Plan "provide the same treatment for each claim or interest of a particular class unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest." The Plan provides the same treatment to claims and interests of the same class. The Plan satisfies § 1123(a)(4).

7. Section 1123(a)(5)

Section 1123(a)(5) requires that the Plan "provide adequate means for the plan's implementation." The Plan will be funded by the Debtors' remaining cash on hand and proceeds from the sale of SFMC and Seton. The Plan provides for the establishment of a Liquidating Trust to make distributions to creditors. The Plan satisfies § 1123(a)(5).

8. Section 1123(a)(6)

Section 1123(a)(6) provides: "[A] plan shall provide for the inclusion in the charter of the debtor, if the debtor is a corporation ..., of a provision prohibiting the issuance of nonvoting equity securities, and providing, as to the several classes of securities possessing voting power, an appropriate distribution of such power among such classes, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for the election of directors representing such preferred class in the event of default in the payment of such dividends."

Because no securities are being issued under the Plan, § 1123(a)(6) does not apply.

9. Section 1123(a)(7)

Section 1123(a)(7) requires that the Plan's provisions with respect to the selection of officers and directors be consistent with public policy and the interests of creditors and equity security holders.

The members of the Post-Effective Date Committee are the California Nurses Association, Medline Industries, Inc., and the Pension Benefit Guaranty Corporation. *See* Doc. No. 5443. The Plan provides that the identity of the Liquidating Trustee and the identity of the directors serving on the Post-Effective Date Board of Directors will be disclosed in one or more Plan Supplements to be filed prior to the Effective Date.

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Because the Plan Supplement(s) must be acceptable to the Committee and the Prepetition Secured Creditors, the Plan's provisions pertaining to the selection of officers and directors are consistent with the interests of creditors.

Because the Debtor is a non-profit and no equity security interests will be issued under the Plan, the Debtor is not required to satisfy § 1123(a)(7) with respect to equity security holders. *See St. Mary's Hosp., Passaic, N.J.*, 2010 WL 5126151, at \*4 (Bankr. D.N.J. Feb. 2, 2010).

10. Section 1123(b)

Section 1123(b) sets forth provisions that are permitted, but not required, in a plan. The Plan contains certain of § 1123(b)'s optional provisions. The Plan is consistent with § 1123(b).

**SECTION 1129(A)(2)**

Section 1129(a)(2) requires that the "proponent of the plan compl[y] with the applicable provisions of this title." The Plan Proponents have obtained approval of a Disclosure Statement in accordance with § 1125; have obtained approval of the employment of professional persons; and have solicited votes on the Plan in accordance with procedures approved by the Court. The Plan Proponents have satisfied the requirements of § 1129(a)(2).

**SECTION 1129(A)(3)**

Section 1129(a)(3) requires that the "plan has been proposed in good faith and not by any means forbidden by law." As one court has explained:

The term 'good faith' in the context of 11 U.S.C. § 1129(a)(3) is not statutorily defined but has been interpreted by case law as referring to a plan that 'achieves a result consistent with the objectives and purposes of the Code.' 'The requisite good faith determination is based on the totality of the circumstances.'

*In re Melcher*, 329 B.R. 865, 876 (Bankr. N.D. Cal. 2005) (internal citations omitted).

Good faith may be found where the Plan is supported by the major constituencies in the case. *In re Chemtura Corp.*, 439 B.R. 561, 608–09 (Bankr. S.D.N.Y. 2010) (finding good faith where the Debtor "negotiated honestly and at an arm's length ... in

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an effort to create a confirmable plan that would satisfy all parties"). Here, the Plan was proposed jointly by the Debtors, the Committee, and the Prepetition Secured Creditors, after extensive negotiations at arm's length. Section 1129(a)(3) is satisfied.

**SECTION 1129(A)(4)**

Section 1129(a)(4) requires that "[a]ny payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable." The Plan provides that all professional fees are subject to review by the Court. The plan satisfies § 1129(a)(4).

**SECTION 1129(A)(5)**

Section 1129(a)(5) requires that the Plan disclose "the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint Plan with the debtor, or a successor to the debtor under the Plan." Section 1129(a)(5)(A)(ii) requires that the appointment to or continuation in office of an director or officer be consistent with the interests of creditors, equity security holders, and public policy. Section 1129(a)(5)(B) requires the Plan proponent to disclose the identity of any insider to be employed by the reorganized debtor.

The Plan Proponents have disclosed that the members of the Post-Effective Date Committee will be the California Nurses Association, Medline Industries, Inc., and the Pension Benefit Guaranty Corporation. *See* Doc. No. 5443. The identities of the Post-Effective Date Board of Directors and Liquidating Trustee will be disclosed in a Plan Supplement to be filed prior to the Effective Date. To satisfy § 1129(a)(5), the Debtors are required to disclose the identities of only those officers and directors that have already been selected. *See In re Charter Commc'ns*, 419 B.R. 221, 260 (Bankr. S.D.N.Y. 2009) ("To the extent the Plan's satisfaction of 11 U.S.C. § 1129(a)(5) remains at issue, the Court concludes that this confirmation standard is satisfied. It is undisputed that two out of the eleven seats on the Debtors' board of directors remain vacant. Although section 1129(a)(5) requires the plan to identify all directors of the reorganized entity, that provision is satisfied by the Debtors' disclosure at this time of the identities of the *known* directors.").

The Plan satisfies § 1129(a)(5).

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**SECTION 1129(A)(6)**

Section 1129(a)(6), which requires that a governmental regulatory commission with jurisdiction over rates charged by a debtor approve any rate changes provided for in the plan, does not apply.

**SECTION 1129(A)(7)**

Section 1129(a)(7), known as the "best interests of creditors test," provides in relevant part: "With respect to each impaired class of claims or interests, each holder of a claim or interest of such class has accepted the plan; or will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date."

All impaired classes that are entitled to vote have accepted the Plan. Section 1129(a)(7) is satisfied.

**SECTION 1129(A)(8)**

Section 1129(a)(8) requires each class to accept the Plan, unless the class is not impaired. All impaired classes entitled to vote have accepted the Plan.

The only two classes deemed to reject the Plan—Class 11 (Subordinated General Unsecured Claims) and Class 12 (Interests)—are "vacant" classes that are not considered for purposes of § 1129(a)(8), pursuant to § 3.5 of the Plan:

[a]ny Class of Claims, as of the commencement of the Confirmation Hearing, that does not have at least one (1) Holder of a Claim in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies § 1129(a)(8) with respect to that Class.

Plan § 3.5.

Section 1129(a)(8) is satisfied.

**SECTION 1129(A)(9)**

Section 1129(a)(9) requires that holders of certain administrative and priority claims receive cash equal to the allowed claim amount of their claims on the effective

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date of the plan, unless the claimant agrees to different treatment.

The Plan provides for the payment of all allowed administrative claims on the Effective Date. For the reasons discussed in Sections II.A–B, above, the objections of SGM and Toyon—whose administrative claims have not yet been allowed—to the adequacy of the Administrative Claims Reserve are overruled. The Plan satisfies § 1129(a)(9).

**SECTION 1129(A)(10)**

Section 1129(a)(10) requires that "at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider." All impaired classes entitled to vote have accepted the Plan. Section 1129(a)(10) is satisfied.

**SECTION 1129(A)(11)**

Section 1129(a)(11), known as the "feasibility requirement," requires the Court to find that "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan."

The Debtors will have sufficient cash on hand to pay the amounts that are due on the Effective Date. As discussed in Sections II.A–B, above, the Debtors are not required to fund the Administrative Claims Reserve such that it provides for the full face amount of all alleged administrative claims that have not yet been allowed. The Court has estimated the amounts of administrative claims not yet allowed and finds the Administrative Claims Reserve to be adequate. The plan is feasible and satisfied § 1129(a)(11).

**SECTION 1129(A)(12)**

Section 1129(a)(12) requires that the Debtor pay all United States Trustee fees prior to confirmation or provide for payment of those fees on the effective date. The Plan provides for the payment in cash of all UST fees at the time of confirmation. Section 1129(a)(12) is satisfied.

**SECTION 1129(A)(13)**

Section 1129(a)(13), which contains requirements pertaining to the payment of retirement benefits, does not apply.

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**SECTION 1129(A)(14)**

Section 1129(a)(14), which contains requirements pertaining to the payment of domestic support obligations, does not apply.

**SECTION 1129(A)(15)**

Section 1129(a)(15), which imposes certain requirements upon individual debtors, does not apply.

**SECTION 1129(A)(16)**

Section 1129(a)(16) provides: "All transfers of property under the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust."

The Plan does not provide for the transfer of any property in contravention of applicable nonbankruptcy law. The Plan satisfies § 1129(a)(16).

**SECTION 1129(D)**

Section 1129(d) provides: "Notwithstanding any other provisions of this section, on request of a party in interest that is a governmental unit, the court may not confirm a Plan if the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933." No governmental unit has requested that the court not confirm the Plan on the grounds that the Plan's purpose is the avoidance of taxes. No securities are issued under the Plan. The Plan satisfies § 1129(d).

**III. Conclusion**

For the reasons set forth above, all unresolved objections to the Plan are **OVERRULED** and the Plan is **CONFIRMED**. The Debtors shall submit an order incorporating this tentative ruling by reference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

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determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The Debtors are as follows:

- 1) Verity Health System of California, Inc. ("VHS");
- 2) O'Connor Hospital ("OCH");
- 3) Saint Louise Regional Hospital ("SLRH");
- 4) St. Francis Medical Center ("SFMC");
- 5) St. Vincent Medical Center ("SVMC")
- 6) Seton Medical Center ("Seton");
- 7) Verity Business Services ("VBS");
- 8) O'Connor Hospital Foundation (the "OCH Foundation");
- 9) Saint Louise Regional Hospital Foundation (the "SLRH Foundation");
- 10) St. Francis Medical Center of Lynwood Foundation (the "SFMC Foundation");
- 11) St. Vincent Medical Center Foundation (the "SVMC Foundation");
- 12) Verity Medication Foundation ("VMF");
- 13) Verity Holdings, LLC ("Holdings");
- 14) De Paul Ventures, LLC ("DePaul");
- 15) De Paul Ventures—San Jose Dialysis, LLC; and St. Vincent Dialysis Center.

**Note 2**

The Prepetition Secured Creditors are UMB Bank, N.A., as Master Trustee, Wells Fargo Bank, National Association, as 2005 Revenue Bonds Trustee, U.S. Bank, National Association as 2015 Notes Trustee and 2017 Notes Trustee, Verity MOB Financing LLC and Verity MOB Financing II, LLC.

**Note 3**

Objections that have been resolved or are now moot are not discussed herein.

**Note 4**

The Court declines the Debtors' request to strike the sur-reply that SGM filed on August 10, 2020 [Doc. No. 5448]. The Debtors are not prejudiced by the Court's consideration of the sur-reply since the Court has also considered the Debtors' arguments in opposition to the sur-reply contained in the *Debtors' (I) Request to*



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*Strike or, in the Alternative, Overrule Strategic Global Management, Inc.'s Unauthorized "Surreply" in Support of SGM's Confirmation Objection and (II) Response to Toyon Associates, Inc.'s Evidentiary Objections to the Declaration of Peter C. Chadwick in Support of the Confirmation Brief [Doc. No. 5456].*

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**#9.00** HearingRE: [5148] Motion to Reject Lease or Executory Contract Debtors Notice of Motion and Sixth Omnibus Motion To Reject, Pursuant To 11 U.S.C. § 365(A), Certain Executory Contracts and Unexpired Leases; Memorandum of Points and Authorities and Declaration of Richard G. Adcock

Docket 5148

**Tentative Ruling:**

8/11/2020

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For the reasons set forth below, the Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Sixth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Executory Contracts and Unexpired Leases [Doc. No. 5148] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5148, 5150, 5151, 5152 and 5153 [Doc. No. 5333]
- 2) Limited Objection of Premier, Inc. to Debtors' Sixth Omnibus Motion to Reject Contracts and Leases [Doc. No. 5264]

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' Chapter 11 cases are being jointly administered.

The Debtors seek authorization to reject certain executory contracts and unexpired leases (collectively, the "Agreements") pursuant to § 365(a), to which Debtors St. Vincent Medical Center ("SVMC"), Seton Medical Center ("Seton"), St. Francis

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Medical Center (“SFMC”), or VHS, as applicable, are a party. The Agreements are principally comprised of (1) equipment rental or consignment agreements, (2) certain medical suite and office leases between SVMC, as lessor, and various parties, as lessees, and (3) miscellaneous service and maintenance agreements. The Debtors seek rejection because the assets to which the Agreements pertain have been or are in the process of being sold.

Premier, Inc. (“Premier”) filed a limited objection to the Motion. On May 29, 2019, the Court entered an order approving a settlement agreement between the Debtors and Premier (the “Premier Settlement”). Premier does not object to the rejection of the Data Transfer Agreement between SVMC and Premier, provided the order on the Motion specifically states that rejection of the Data Transfer Agreement does not affect the parties’ respective continuing obligations under the Settlement Agreement.

## **II. Findings and Conclusions**

Section 365(a) provides that the Debtor, "subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Castetter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession’s conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

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*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreements. The Debtors have demonstrated that the Agreements are no longer necessary given that the assets to which the Agreements pertain have been sold or are in the process of being sold. Rejection of the Agreements shall be effective as of **July 20, 2020**, the date of the filing of the Motion.

The deadline for counterparties to the Agreements to file a proof of claim arising from the rejection of the applicable Agreement, pursuant to Bankruptcy Rule 3002(c) (4), shall be **September 28, 2020** (the “Rule 3002(c)(4) Claims Bar Date”). Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by counterparties no later than **August 19, 2020**. Debtors shall file a proof of service of such notice by no later than **August 19, 2020**.

The deadline for counterparties to retrieve any leased or consigned goods or equipment is **August 31, 2020**. Debtors shall provide notice of the deadline so that it is actually received by counterparties no later than **August 19, 2020**.

Premier’s request for a provision in the order on the Motion specifically stating that the rejection of the Data Transfer Agreement does not affect the parties’ continuing obligations under the Settlement Agreement is **GRANTED**. The Debtors and Premier shall negotiate appropriate language to this effect.

### **III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED**. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge’s Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

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**#10.00** Hearing re [5199] *Debtors' Emergency Motion for the Entry of an Order: (I) Enforcing the Order Authorizing the Sale to Prime Healthcare Services, Inc.; (II) Finding that the Sale is Free and Clear of Additional Conditions; (III) Finding That the Attorney General Abused His Discretion in Imposing Conditions on the St. Francis Medical Center Sale; and (IV) Granting Related Relief*

Docket 0

**Tentative Ruling:**

8/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Before the Court is the Debtors' motion to sell St. Francis Medical Center ("St. Francis"), a not-for-profit hospital, free and clear of regulatory conditions which the California Attorney General claims authority to impose under Cal. Corp. Code §§ 5914 *et seq.* For the reasons set forth below, the Court finds that § 363 of the Bankruptcy Code authorizes a sale free and clear of the conditions which the Attorney General contends he is authorized to impose.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Emergency Motion for the Entry of an Order: (I) Enforcing the Order Authorizing the Sale to Prime Healthcare Services, Inc.; (II) Finding that the Sale is Free and Clear of Additional Conditions; (III) Finding that the Attorney General Abused His Discretion in Imposing Additional Conditions on the St. Francis Medical Center Sale; and (IV) Granting Related Relief [Doc. No. 5199] (the "Motion")
  - a) Order Setting Hearing on Emergency Motion for Entry of an Order Enforcing the Order Authorizing the Sale to Prime Healthcare Services, Inc. [Doc. No. 5206]
- 2) Opposition of California Attorney General to [Motion] [Doc. No. 5388]

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- a) Errata to Opposition of California Attorney General to [Motion] [Doc. No. 5404]
- 3) Debtors' Reply to California Attorney General's Opposition to [Motion] [Doc. No. 5423]
- 4) Order Striking from the Record Prospect Medical's Opposition to the Debtors' Emergency Motion to Enforce the Sale Order [Doc. No. 5401]
  - a) Memorandum of Decision Finding that Prospect Medical Lacks Standing to Oppose the Debtors' Emergency Motion to Enforce the Sale Order [Doc. No. 5399]
  - b) Prospect Medical's Response to [the Motion] [Doc. No. 5368]

## **I. Facts**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain affiliated entities (collectively, the "Debtors") each filed voluntary Chapter 11 petitions. The Debtors' cases are being jointly administered.

As of the Petition Date, the Debtors operated six acute care hospitals in the state of California. On December 27, 2018, the Court authorized the Debtors to sell two of their hospitals—O'Connor Hospital and Saint Louise Regional Hospital—to Santa Clara County (the "Santa Clara Sale"). [**Note 1**] The Santa Clara Sale closed on February 28, 2019.

### **A. The 2015 Conditions**

In 2015, prior to the commencement of these cases, the Debtors' predecessor sought authorization from the California Attorney General (the "Attorney General"), pursuant to Cal. Corp. Code § 5914, to implement a *System Restructuring and Support Agreement* (the "Restructuring Agreement"). The Attorney General approved the Restructuring Agreement, subject to various conditions (the "2015 Conditions"). Among other things, the 2015 Conditions required St. Francis to (1) maintain specified health services at minimum levels, (2) participate in the Medicare and Medicaid programs, (3) provide community benefit programs, (4) provide specified levels of charity care, (5) maintain various county contracts, and (6) assume pension obligations.

### **B. The Failed SGM Sale**

On February 19, 2019, the Court entered an order establishing bidding procedures [Doc. No. 1572] (the "SGM Bidding Procedures Order") for the auction of the

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Debtors' four remaining hospitals—St. Francis Medical Center ("St. Francis"), St. Vincent Medical Center (including St. Vincent Dialysis Center) ("St. Vincent"), and Seton (including Seton Medical Center Coastside ("Seton Coastside")). Under the SGM Bidding Procedures Order, Strategic Global Management, Inc. ("SGM") was designated as the stalking horse bidder. SGM's bid for all four of the hospitals was \$610 million. The Bidding Procedures Order approved an Asset Purchase Agreement between the Debtors and SGM (the "SGM APA").

The hospitals were extensively marketed by the Debtors' investment banker, Cain Brothers, a division of KeyBank Capital Markets, Inc. ("Cain"). Cain notified ninety parties of the auction process. Sixteen of these parties requested continued access to a data room containing information about the hospitals.

Notwithstanding Cain's thorough marketing efforts, the Debtors did not receive any qualified bids for all of the hospitals. The Debtors received one bid to purchase only St. Vincent and one bid to purchase only St. Francis. After consulting with the Official Committee of Unsecured Creditors (the "Committee") and the largest secured creditors, the Debtors determined not to conduct an auction. On May 2, 2019, the Court entered an order finding that SGM was the winning bidder and approving the sale to SGM (the "SGM Sale").

On November 27, 2019, the Court entered a memorandum of decision and accompanying order finding that as of November 19, 2019, all conditions precedent under the SGM APA to SGM's obligation to close the SGM Sale had been satisfied. Doc. Nos. 3723–24. The Court found that pursuant to § 1.3 of the SGM APA, SGM was obligated to close the SGM Sale by no later than December 5, 2019. *Id.* SGM did not close the sale by December 5, 2019. On December 27, 2019, the Debtors sent SGM a notice terminating the SGM APA and asserting that SGM had materially breached the SGM APA. Doc. No. 3899.

**C. The Prime Sale**

After the SGM Sale failed to close, Cain commenced a new marketing process. In December 2019, Cain began making phone calls to parties who had previously expressed interest in acquiring St. Francis. On January 3, 2020, Cain e-mailed all parties who had previously executed NDAs and explained that the Debtors were initiating another marketing process. Ultimately, 61 parties executed NDAs with respect to the renewed marketing process and were granted access to an online data room.

On January 31, 2020, the Debtors received seven Indications of Interest (the



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“IOIs”) for the potential acquisition of St. Francis. Cain contacted the seven potential purchasers who submitted the IOIs and continued to work with the purchasers to respond to questions and provide information.

On February 26, 2020, the Court entered an *Order (1) Approving Auction Sale Format and Bidding Procedures; (2) Approving Process for Discretionary Selection of Stalking Horse Bidder and Bid Protections; (3) Approving Form of Notice to be Provided to Interested Parties; (4) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest and Best Bidder; and (5) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases* [Doc. No. 4165] (the “Bidding Procedures Order,” and the motion for entry of the Bidding Procedures Order, the “Bidding Procedures Motion”). The Bidding Procedures Order established procedures governing the auction (the “Auction”) of St. Francis.

The Bidding Procedures Order authorized the Debtors to designate a Stalking Horse Bidder without further order of the Court. The Debtors designated Prime Healthcare Services, Inc. (“Prime”) as the Stalking Horse Bidder. The Debtors received bids from potential purchasers, but after consulting with their advisors and the Consultation Parties (as defined in the Bidding Procedures Order), determined that such bids did not constitute Qualified Bids. The Debtors selected Prime as the Winning Bidder and did not conduct the Auction. On April 9, 2020, the Court entered an order authorizing the Debtors to sell St. Francis to Prime. *See* Doc. No. 4511 (the “Sale Order”).

The Asset Purchase Agreement under which Prime agreed to purchase St. Francis (the “APA”) provided that Prime would close the sale so long as any conditions imposed by the Attorney General under the review process set forth in Cal. Corp. Code §§ 5914 *et seq.* were substantially consistent with conditions that Prime had agreed to accept (the “Approved Conditions”). [Note 2] In the event that the Attorney General sought to impose conditions materially different from the Approved Conditions (the “Additional Conditions”), the APA provided that the Debtors would have an opportunity to seek a determination from the Court that the St. Francis could be sold free and clear of the Additional Conditions under § 363(f) of the Bankruptcy Code. Under the APA, Additional Conditions imposing upon Prime costs of \$5 million or more are conclusively deemed to be materially different from the Approved Conditions. Prime is not required to close the Sale unless the Debtors obtain an unstayed order authorizing the sale free and clear of the Additional Conditions.

On June 25, 2020, Prime filed *Prime Healthcare’s Notice of Acceptance of Additional Attorney General Conditions for Purchase of St. Francis Medical Center*

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[Doc. No. 4954] (the "Prime Notice"). Notwithstanding the fact that it was not obligated to do so under the APA, Prime agreed to accept certain of the Additional Conditions that had been recommended in the *Health Care Impact Statement* prepared by JD Healthcare in connection with the Attorney General's review of the sale. Among other things, Prime agreed to (1) maintain cancer services, including radiation oncology, at existing levels for at least the next ten years, (2) maintain the pediatric behavioral counseling clinic located at 4390 Tweedy Avenue, South Gate, CA 90280, (3) maintain the multi-specialty clinic located at 3628 East Imperial Highway, Ste. 103, Lynwood, CA 90262, and (4) maintain the American Career College program for onsite training for at least five years from the closing date.

On July 16, 2020, the Attorney General consented to the sale, but conditioned his consent upon Prime's adherence to a new set of conditions (the "2020 Conditions"). The 2020 Conditions include numerous Additional Conditions materially different from the Approved Conditions. On July 21, 2020, Prime sent a letter to the Attorney General, requesting an opportunity to meet and confer regarding a potential consensual resolution with respect to the Additional Conditions. On July 24, 2020, Prime confirmed that it agreed to accept all but three of the Additional Conditions—charity care amount, the community benefit services commitment, and the continuation of an Affiliation Agreement for physicians in post-graduate training. Prime and the Attorney General have been unable to reach an agreement with respect to these three Additional Conditions.

The differences between the charity care and community benefit payments Prime has agreed to accept, and the payments which the Attorney General asserts must be made, are set forth in the following table:

<b>Condition</b>	<b>Terms Acceptable to Prime</b>	<b>Terms Asserted by Attorney General</b>	<b>Difference</b>
Charity care amount	\$8 million per year for six years	\$10,186,173 per year for six years	\$13.117 million over six years
Community benefit services amount	\$1,139,301 per year for six years	\$1,597,077 per year for six years	\$2.747 million over six years

The third condition in dispute is the Attorney General's requirement that Prime accept an Affiliation Agreement for physicians in post-graduate training. Under the Affiliation Agreement, one post-graduate fellow rotates through St. Francis' trauma center for one month, twice per year. Prime opposes this condition because it would

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prevent Prime from establishing a robust post-graduate resident training program due to certain regulations.

Prime will not close the sale absent an order finding that St. Francis can be sold free and clear of the Additional Conditions pursuant to § 363(f). If the sale does not close, the most likely outcome will be the closure of St. Francis. The Debtors incur operational losses of approximately \$450,000 for each day that the sale does not close. Chadwick Decl. [Doc. No. 5199] at ¶ 7. The Debtors do not have sufficient cash on hand to conduct another sale of St. Francis. *Id.*

It is against this backdrop that the Debtors move for authorization to sell the St. Francis free and clear of the Additional Conditions, pursuant to § 363(f). The Debtors argue that the Additional Conditions constitute an "interest in property" within the meaning of § 363(f), and that a sale free and clear of the Additional Conditions may be authorized under § 363(f)(1), (4), or (5), for the following reasons:

- Pursuant to § 363(f)(1), St. Francis may be sold under applicable nonbankruptcy law, because under California law, the purchaser of assets does not assume successor liability.
- Pursuant to § 363(f)(4), the validity of the Additional Conditions is subject to a *bona fide* dispute, because the Attorney General abused his discretion in imposing the Additional Conditions.
- Pursuant to § 363(f)(5), the Attorney General could be compelled to accept a money satisfaction of certain of the Additional Conditions, such as the condition that Prime provide specified levels of charitable care.

In addition, the Debtors assert that imposition of the Additional Conditions violates § 525, which prohibits government entities from discriminating against debtors who have failed to pay dischargeable debts when issuing licenses. According to the Debtors, the Additional Conditions constitute an attempt by the Attorney General to collect a dischargeable debt. The Debtors' theory is that Attorney General's refusal to approve the sale absent imposition of the Additional Conditions amounts to the discriminatory denial of licensure in contravention of § 525.

The Attorney General opposes the Motion. He argues that because the Debtors are non-profit entities, the sale is governed exclusively by § 363(d)(1), and that § 363(f) does not apply. The Attorney General denies that he abused his discretion in imposing the Additional Conditions. He notes that he considered an extensive record in arriving at the Additional Conditions, and states that Prime's unwillingness to accept the

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Additional Conditions does not mean that his decision to impose them was an abuse of discretion.

## II. Findings of Fact and Conclusions of Law

Section 363(d)(1) authorizes non-profit entities, such as the Debtors, to sell estate assets only if the sale is "in accordance with nonbankruptcy law applicable to the transfer of property by" a non-profit entity. Section 541(f) similarly provides that property held by debtors that are § 501(c)(3) corporations under the Internal Revenue Code may be transferred, but "only under the same conditions as would apply if the debtor had not filed a case under this title." Section 363(b) authorizes the Debtors to sell estate property out of the ordinary course of business, subject to court approval. The Debtors must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19–20 (9th Cir. BAP 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19–20. Section 363(f) provides that a sale of estate property may be "free and clear of any interest in such property of an entity other than the estate," provided that certain conditions are satisfied.

### **A. The Additional Conditions are an "Interest in Property" Within the Meaning of § 363(f)**

As this Court has previously explained:

The Bankruptcy Code does not define the phrase "interest in ... property" for purposes of § 363(f). The Third Circuit has held that the phrase "interest in ... property" is "intended to refer to obligations that are connected to, or arise from, the property being sold." *Folger Adam Sec., Inc. v. DeMatteis/MacGregor JV*, 209 F.3d 252, 259 (3d Cir. 2000). That conclusion is echoed by *Collier on Bankruptcy*, which observes a trend in caselaw "in favor of a broader definition [of the phrase] that encompasses other obligations that may flow from ownership of the property." 3 Alan N. Resnick & Henry J. Sommer, *Collier on Bankruptcy* ¶ 363.06[1] (16th ed. 2017).

Courts have held that interests in property include monetary obligations arising from the ownership of property, even when those obligations are imposed by statute. For example, in *Mass. Dep't of Unemployment Assistance v. OPK Biotech, LLC (In re PBBPC, Inc.)*, 484 B.R. 860 (1st Cir. BAP 2013), the court held that taxes assessed by Massachusetts under its unemployment

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insurance statutes constituted an "interest in ... property." The taxes were computed based on the Debtor's "experience rating," which was determined by the number of employees it had terminated in the past. *Id.* at 862. Because the Debtor had terminated most of its employees prior to selling its assets, its experiencing rating, and corresponding unemployment insurance tax liabilities, were very high. *Id.* The *PBBPC* court held that the experience rating was an interest in property that could be cut off under § 363(f). *Id.* at 869–70. Similarly, in *United Mine Workers of Am. Combined Benefit Fund v. Leckie Smokeless Coal Co. (In re Leckie Smokeless Coal Co.)*, 99 F.3d 573, 581, the court held that monetary obligations imposed by the Coal Industry Retiree Health Benefit Act of 1992 constituted an "interest in ... property" within the meaning of § 363(f).

*In re Gardens Reg'l Hosp. & Med. Ctr., Inc.*, 567 B.R. 820, 825–26 (Bankr. C.D. Cal. 2017), *appeal dismissed*, No. 2:16-BK-17463-ER, 2018 WL 1229989 (C.D. Cal. Jan. 19, 2018) ("*Gardens I*").

The Additional Conditions are an "interest in property" within the meaning of § 363(f). First, the Additional Conditions are monetary obligations arising from the ownership of property. Similar to the "experience rating" at issue in *PBBPC, Inc.*, the Additional Conditions were calculated based upon St. Francis' prior operating history. Among other things, the Additional Conditions require that Prime furnish specified levels of charity care and community benefit services. The required service levels have been set based upon St. Francis' historical operations.

Second, the Attorney General's statutory authority to impose the Additional Conditions arises from the Debtors' operation of St. Francis as a non-profit entity. Had the Debtors not operated St. Francis in this manner, there could be no contention that the Prime Sale is subject to the Attorney General's review pursuant to Cal. Corp. Code § 5914. In this sense as well, the Additional Conditions "arise from the property being sold," *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290 (3d Cir. 2003), and therefore qualify as an "interest in ... property" within the meaning of § 363(f).

Third, the Attorney General is barred by the law of the case doctrine from asserting that the Additional Conditions are not an "interest in ... property." "Under the 'law of the case' doctrine, a court is ordinarily precluded from reexamining an issue previously decided by the same court, or a higher court, in the same case." *Richardson v. United States*, 841 F.2d 993, 996 (9th Cir.), *amended*, 860 F.2d 357 (9th Cir. 1988). "For the doctrine to apply, the issue in question must have been

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‘decided explicitly or by necessary implication in [the] previous disposition.’” *United States v. Lummi Indian Tribe*, 235 F.3d 443, 452 (9th Cir. 2000).

In connection with the Santa Clara Sale, the Court addressed the exact issue presented here—whether conditions that the Attorney General sought to impose upon the sale constituted an "interest in ... property" for purposes of § 363(f). [Note 3] The Attorney General litigated the issue, and the Court overruled the Attorney General’s arguments. [Note 4] The Attorney General voluntarily dismissed his appeal of the order finding that the conditions he sought to impose were an "interest in ... property." The law of the case doctrine bars relitigation of the issue.

The Attorney General’s new argument that the Additional Conditions are not an interest in property because a sale involving a non-profit debtor is governed exclusively by § 363(d), and not § 363(f), is also barred by the law of the case doctrine. The Attorney General could have made this argument in connection with the prior litigation, but he did not do so. The Court’s prior decision implicitly rejected the theory that § 363(f) does not apply to a sale involving a non-profit debtor.

The doctrine of issue preclusion is a further bar to any attempt by the Attorney General to contest the Additional Conditions’ status as an "interest in ... property." As explained by the Supreme Court, issue preclusion forecloses "‘successive litigation of an issue of fact or law actually litigated and resolved in a valid court determination essential to the prior judgment,’ even if the issue recurs in the context of a different claim." *Taylor v. Sturgell*, 553 U.S. 880, 892, 128 S. Ct. 2161, 2171, 171 L. Ed. 2d 155 (2008) (internal citations omitted). The doctrine protects "against ‘the expense and vexation attending multiple lawsuits, conserve[s] judicial resources, and foster[s] reliance on judicial action by minimizing the possibility of inconsistent decisions.’" *Id.* Issue preclusion applies if "(1) the issue at stake was identical in both proceedings; (2) the issue was actually litigated and decided in the prior proceedings; (3) there was a full and fair opportunity to litigate the issue; and (4) the issue was necessary to decide the merits." *Howard v. City of Coos Bay*, 871 F.3d 1032, 1041 (9th Cir. 2017).

The Attorney General has litigated the issue presented here, both in connection with the Santa Clara Sale and in connection with a sale in *Gardens I* (the "Gardens Sale"). Just as he did in the Santa Clara Sale, the Attorney General claimed in the Gardens Sale the regulatory authority to impose conditions. The Court found that the Attorney General’s claim to regulatory authority was an "interest in ... property" for purposes of § 363(f). *Gardens I*, 567 B.R. at 826. The Attorney General is precluded from relitigating the issue of whether his claimed authority to impose conditions on the SGM Sale is an "interest in ... property."

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**B. The Debtors May Sell the Hospitals Free and Clear of the Additional Conditions Pursuant to § 363(f)(1)**

Sale of St. Francis may be free and clear of the Additional Conditions only upon satisfaction of one or more of the five disjunctive sub-factors set forth in § 363(f). Under § 363(f)(1), a sale free and clear may be approved if permitted by applicable nonbankruptcy law.

Applicable nonbankruptcy law permits a sale free and clear for two reasons. First, the Attorney General's attempt to impose the Additional Conditions upon Prime is equivalent to an attempt to impose successor liability upon Prime. California law does not authorize the imposition of successor liability upon Prime under these circumstances. Second, even if the Attorney General were authorized to impose successor liability under California law, the Attorney General abused his discretion in imposing the Additional Conditions, meaning that the Additional Conditions must be set aside.

**1. California Law Does Not Authorize the Attorney General to Impose Successor Liability Upon Prime**

*i. The Additional Conditions Qualify as Successor Liability*

The Attorney General's attempt to impose the Additional Conditions upon Prime qualifies as an attempt to impose successor liability upon Prime. The reason is that the Additional Conditions impose upon Prime many of the same obligations imposed upon the Debtors by the 2015 Conditions. By attempting to enforce the Additional Conditions, the Attorney General is attempting to enforce the obligations imposed by the 2015 Conditions against Prime.

It is true that the 2015 Conditions are not identical to the Additional Conditions. Under the 2015 Conditions, St. Francis was required to provide annual charity care in an amount equal to or greater than \$16,646,323; the charity care amount under the Additional Conditions is \$10,186,173 annually. The community benefit requirement under the 2015 Conditions was \$1,362,680 annually; under the Additional Conditions, the amount is \$1,597,077 annually.

Considered within the overall scope of the obligations imposed, the differences between the 2015 Conditions and the Additional Conditions are comparatively inconsequential. The Additional Conditions still qualify as successor liability even

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though they are not exactly identical to the 2015 Conditions.

The Additional Conditions cannot be appropriately categorized as Prime's obligation to comply with applicable law on a going-forward basis, rather than as successor liability. For example, the Additional Conditions are unlike environmental remediation obligations that are not successor liability given that any entity purchasing contaminated property has an obligation to comply with environmental law. The distinction can be illustrated by an examination of the court's discussion of environmental remediation obligations in *In re Gen. Motors Corp.*:

Under section 363(f), there could be no successor liability imposed on the purchaser for the [seller's] ... monetary obligations related to cleanup costs, or any other obligations that were obligations of the seller. But the purchaser would have to comply with its environmental responsibilities starting with the day it got the property, and if the property required remediation as of that time, any such remediation would be the buyer's responsibility .... Those same principles will be applied here. Any Old GM properties to be transferred will be transferred free and clear of successor liability, but New GM will be liable from the day it gets any such properties for its environmental responsibilities going forward.

407 B.R. 463, 508 (Bankr. S.D.N.Y. 2009).

The key difference between the contaminated property at issue in *General Motors* and the present situation is that *any* entity that purchased the contaminated property at issue in *General Motors* would have been required to comply with environmental regulations going forward. Environmental compliance obligations would not vary based upon the identity of the purchaser or seller. Here, by contrast, whether a purchaser is obligated to comply with Attorney General conditions can vary, depending upon either the identity of the purchaser or the identity of the seller. There is no general obligation imposed upon an entity that purchases a hospital in the State of California to operate that hospital in accordance with conditions asserted by the Attorney General. The Attorney General's regulatory authority applies only to non-profit hospitals, and only to certain types of sale transactions. Had the Hospitals been sold to a public entity, such as the County of Los Angeles, the Attorney General could not have reviewed the sale. *See Verity I*, 598 B.R. at 294 (holding that Cal. Corp. Code § 5914 did not apply where non-profit hospitals were sold to a public entity). Had St. Francis been operated by a for-profit entity, the Attorney General could not



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have reviewed the sale. *See* Cal. Corp. Code § 5914(a) (requiring only nonprofit corporations to submit the sale of assets to Attorney General review).

Because the obligation to comply with the Additional Conditions is contingent upon the identity of the purchaser and the identity of the seller, the conditions cannot fairly be characterized as the purchaser's obligation to comply with applicable law on a going-forward basis. The Attorney General can claim authority to impose the Additional Conditions upon purchaser Prime only because the Debtors operated the St. Francis as a non-profit. Since the Attorney General's alleged authority to impose the Additional Conditions derives from the manner in which the Debtors operated St. Francis, the Additional Conditions are appropriately characterized as successor liability.

*ii. Successor Liability Cannot Be Imposed Under California Law*

Under California law, the general rule is "that where a corporation purchases, or otherwise acquires by transfer, the assets of another corporation, the acquiring corporation does not assume the selling corporation's debts and liabilities." *Fisher v. Allis-Chalmers Corp. Prod. Liab. Tr.*, 95 Cal. App. 4th 1182, 1188, 116 Cal. Rptr. 2d 310, 315 (2002). The general rule does not apply if "(1) there is an express or implied agreement of assumption, (2) the transaction amounts to a consolidation or merger of the two corporations, (3) the purchasing corporation is a mere continuation of the seller, or (4) the transfer of assets to the purchaser is for the fraudulent purpose of escaping liability for the seller's debts." *Id.*

None of the exceptions to the general rule are present here. First, Prime has not agreed to assume the Additional Conditions, either expressly or by implication. Second, the Prime Sale is not a consolidation or merger of the Debtors and Prime. A sale transaction is a consolidation or merger of two corporations "where one corporation takes all of another's assets without providing any consideration that could be made available to meet claims of the other's creditors or where the consideration consists wholly of shares of the purchaser's stock which are promptly distributed to the seller's shareholders in conjunction with the seller's liquidation." *Ray v. Alad Corp.*, 19 Cal. 3d 22, 28, 560 P.2d 3 (1977) (internal citations omitted). Neither factor applies. Prime is paying for the Hospitals in cash (not stock), and that cash will be distributed to the Debtors' creditors through a plan of liquidation. Third, Prime is not a mere continuation of the Debtors. A purchaser is a mere continuation of a seller if there is inadequate consideration for the purchaser or if one or more persons

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are officers, directors, or stockholders or both corporations. *Id.* Consideration for the Prime Sale is adequate and no officers or directors of the Debtors are officers or directors of Prime. [Note 5] Fourth, the Debtors are not selling St. Francis for the purpose of escaping liabilities for their debts. In fact, the opposite is true—the objective of the Prime Sale is to generate proceeds to pay the Debtors' debts through a liquidating Plan. In sum, successor liability cannot be imposed on Prime under California common law.

Successor liability cannot be imposed under Cal. Corp. Code §§ 5914–5919. Cal. Corp. Code § 5914 authorizes the Attorney General to review transactions in which a non-profit healthcare facility seeks to transfer a material amount of its assets to a for-profit entity, and provides in relevant part:

Any nonprofit corporation that is defined in Section 5046 and operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or operates or controls a facility that provides similar health care, regardless of whether it is currently operating or providing health care services or has a suspended license, shall be required to provide written notice to, and to obtain the written consent of, the Attorney General prior to entering into any agreement or transaction to do either of the following:

(A) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of, its assets to a for-profit corporation or entity or to a mutual benefit corporation or entity when a material amount of the assets of the nonprofit corporation are involved in the agreement or transaction.

Cal. Corp. Code § 5914(a)(1) (West).

The "Attorney General shall have discretion to consent to, give conditional consent to, or not consent to" the transaction. Cal. Corp. Code § 5917.

Nothing within the statute authorizes the Attorney General to impose successor liability upon Prime, the for-profit entity that purchased the healthcare assets from the non-profit Debtors. Under the statute, the Attorney General is authorized to review transactions entered into by a "nonprofit corporation that ... operates or controls a health facility," Cal. Corp. Code § 5914(a)(1), and to "consent to, give conditional consent to, or not consent to" any such transactions, Cal. Corp. Code § 5917. These provisions do not grant the Attorney General authority to impose going-forward obligations on the assets that are the subject of the transaction. That is, the statute does not provide that the healthcare assets themselves are subject to regulation by the

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Attorney General. Rather, it is the non-profit status of the entity operating the healthcare assets that triggers the Attorney General's regulatory authority. Upon transfer of the healthcare assets from the non-profit entity to the for-profit entity, the Attorney General's regulatory authority over the assets terminates.

The issue of the Attorney General's authority to impose successor liability arose in the case of *La Paloma Generating Co.*, No. 16-12700, 2017 WL 5197116 (Bankr. D. Del. Nov. 9, 2017). In *La Paloma*, the debtor operated a power plant subject to a cap-and-trade emissions regulation. The regulation required "Covered Entities"—defined as entities engaging in operations that generated emissions—to surrender "Compliance Instruments" equal to the amount of emissions generated at specified times. At issue was whether a power plant could be sold "free and clear of, and without the purchaser assuming, any obligation to surrender compliance instruments under the California Cap-and-Trade Program for emissions generated by the Debtors and/or their facility during the period before the transfer of the assets." *Id.* at \*2. The court found that "[u]nder the Regulation, only entities—and not assets—are Covered Entities" subject to the obligation to surrender Compliance Instruments. *Id.* at \*5. As a result, the court found, the debtors could sell the power plant free and clear of the surrender obligations, pursuant to § 363(f)(1). *Id.* at \*8. The court reasoned that the regulation did not impose successor liability on the purchaser, because it imposed liability only on "Covered Entities," and the purchaser would not become a Covered Entity until after it acquired the power plant. *Id.* at \*7-\*8. The regulation, the court held, was limited to Covered Entities, and could not be used to "impugn liability on the purchaser of ... the Covered Entity's assets." *Id.* at \*8.

With respect to the imposition of successor liability, the statute at issue here operates in the same manner as the regulation examined in *La Paloma*. Similar to the regulation in *La Paloma*, Cal. Corp. Code § 5914–5919 permits the imposition of liability upon St. Francis only because it is operated by a non-profit entity. That is, independent of the fact that it is operated by a non-profit entity, nothing within Cal. Corp. Code § 5914–5919 authorizes the Attorney General to impose liabilities upon the St. Francis. Further, the Attorney General's regulatory authority under the statute does not extend to for-profit entities. As was the case in *La Paloma*, Cal. Corp. Code § 5914–5919 does not authorized the Attorney General to impose liability upon Prime, the for-profit purchaser of St. Francis.

2. Even if California Law Allowed the Attorney General to Impose Successor Liability Upon Prime, the Attorney General Abused his Discretion in Imposing the

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Additional Conditions

As set forth below, the Court finds that the Attorney General's decision to impose the Additional Conditions is subject to judicial review by administrative mandate under California law. This Court is empowered to conduct such judicial review pursuant to § 1221(e) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), which provides:

Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

Pub. L. No. 109-8, § 1221(e) (2005). [**Note 6**] *See also In re HHH Choices Health Plan, LLC*, 554 B.R. 697, 700 (Bankr. S.D.N.Y. 2016) (construing New York state law to determine the appropriate disposition of a non-profit debtor's assets).

Upon review of the Attorney General's decision, the Court finds that the imposition of the Additional Conditions constituted an abuse of discretion, for the reasons explained below. Therefore, the Additional Conditions must be set aside, which means that the Debtors are authorized to sell St. Francis free and clear of the Additional Conditions under applicable nonbankruptcy law.

*i. The Attorney General's Imposition of the Additional Conditions is Subject to Judicial Review by Administrative Mandate*

Cal. Civ. Proc. Code § 1094.5 provides for judicial review by administrative mandate of decisions made by agencies or officers of the State of California. A writ of mandate may be issued if the agency or officer making the decision engaged in a "prejudicial abuse of discretion." Cal. Civ. Proc. Code § 1094.5(b). An "abuse of discretion is established if ... the order or decision is not supported by the findings, or the findings are not supported by the evidence." *Id.*

The Attorney General contends that administrative mandamus review is not available because the Additional Conditions were not issued subsequent to "a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal." Cal. Civ. Proc. Code § 1094.5(a). The Attorney General acknowledges that he conducted "public meetings ... to hear comments from interested parties" as required by Cal. Corp. Code § 5922. However, the Attorney General asserts that such public

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meetings were not "hearings" within the meaning of Cal. Civ. Proc. Code § 1094.5(a), because public comments were not presented under oath and no effort was made to determine the accuracy of the information offered by members of the public. The Attorney General's position is that the Debtors are entitled only to traditional mandamus review under Cal. Civ. Proc. Code § 1085.

"Quasi-legislative acts are ordinarily reviewed by traditional mandate, and quasi-judicial acts are reviewed by administrative mandate. 'Generally speaking, a legislative action is the formulation of a rule to be applied to all future cases, while an adjudicatory act involves the actual application of such a rule to a specific set of existing facts.'" *Friends of the Old Trees v. Dep't of Forestry & Fire Prot.*, 52 Cal. App. 4th 1383, 1389, 61 Cal. Rptr. 2d 297, 303 (1997) (internal citation omitted).

The Court is not persuaded by the Attorney General's contention that administrative mandamus review is unavailable to the Debtors. In reviewing the Prime Sale, the Attorney General hired JD Healthcare, Inc. to prepare an expert report containing information on how the Prime Sale would affect the availability of healthcare services in the region served by St. Francis.

The JD Healthcare expert report contains recommendations regarding the conditions that the Attorney General should impose on the Prime Sale. Upon receiving the expert report, the Attorney General asked the Debtors and Prime to respond to the conditions recommended by JD Healthcare. The Attorney General conducted meetings at which members of the public commented on the Prime Sale. "[P]urely documentary proceedings can satisfy the hearing requirement of Code of Civil Procedure § 1094.5, so long as the agency is required by law to accept and consider evidence from interested parties before making its decision." *Friends of the Old Trees*, 52 Cal. App. 4th at 1391–92. A "trial-type hearing" is not necessary. *Id.* at 1392.

The Attorney General's review involved "the actual application of ... a rule to a specific set of existing facts." *Friends*, 52 Cal. App. 4th at 1389. The Attorney General received evidence from JD Healthcare, heard comments from members of the public, and elected to impose the Additional Conditions after considering all the evidence collected during the review process. The Attorney General's review of the Prime Sale was a quasi-judicial act subject to review by administrative mandate.

The Attorney General next asserts that administrative mandamus review is unavailable because the Debtors have failed to produce the complete administrative record supporting the Attorney General's decision. This contention is without merit. For purposes of administrative mandamus review, a partial record is sufficient if it "accurately represent[s] the administrative proceedings, provide[s] the reviewing court

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with an understanding of what occurred below, and enable[s] that court to undertake an independent judicial review of the administrative decision." *Elizabeth D. v. Zolin*, 21 Cal. App. 4th 347, 349, 25 Cal. Rptr. 2d 852 (1993). The record before the Court consists of the expert report prepared by JD Healthcare and letters from the Debtors and Prime responding to the Attorney General's request for a list of Additional Conditions that would be "deal breakers." It is not possible for the Debtors to submit the complete record to the Court because that record is in the sole possession of the Attorney General. In contrast to the prior hearing in connection with the failed SGM Sale involving the same issues, the Attorney General made the decision not to include in his opposition excerpts of the public meeting transcript—perhaps in a tactical attempt to defeat the Debtors' request for administrative mandamus review. At any rate, the record on file is sufficient to provide the Court with an understanding of the reasons for the Attorney General's decision.

There are two tests for judicial review by administrative mandate. "The 'independent judgment' rule applies when the decision of an administrative agency will substantially affect a fundamental vested right." *Mann v. Dep't of Motor Vehicles*, 76 Cal. App. 4th 312, 320, 90 Cal. Rptr. 2d 277, 283 (1999). Under the "independent judgment" rule, the Court must "begin its review with a presumption of the correctness of administrative findings, and then, after affording the respect due to these findings, exercise independent judgment in making its own findings." *Fukuda v. City of Angels*, 20 Cal. 4th 805, 819, 977 P.2d 693, 701 (1999). "[T]he presumption provides the trial court with a starting point for review but it is only a presumption, and may be overcome. Because the trial court ultimately must exercise its own independent judgment, that court is free to substitute its own findings after first giving due respect to the agency's findings." *Id.*

"The 'substantial evidence' rule applies when the administrative decision neither involves nor substantially affects a vested right. The trial court must then review the entire administrative record to determine whether the findings are supported by substantial evidence and whether the agency committed any errors of law ...." *Mann*, 76 Cal. App. 4th 312, 320, 90 Cal. Rptr. 2d 277, 283 (1999).

To determine whether an administrative decision affects a fundamental vested right, the Court examines "whether the affected right is deemed to be of sufficient significance to preclude its extinction or abridgement by a body lacking *judicial* power." *Interstate Brands v. Unemployment Ins. Appeals Bd.*, 26 Cal. 3d 770, 779, 608 P.2d 707, 713 (1980) (emphasis in original). An administrative decision that would have the effect of shutting down a business affects a fundamental vested right.

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*See, e.g., The Termo Co. v. Luther*, 169 Cal. App. 4th 394, 407–08, 86 Cal. Rptr. 3d 687, 697 (2008) ("The implementation of the Order and Decision would have the effect not only of shutting down a business that has been in existence for 20 years or more, but also of terminating the right to produce oil—an extraordinarily valuable resource, especially in the current economic era.... Certainly, a fundamental vested right is at issue."); *Goat Hill Tavern v. City of Costa Mesa*, 6 Cal. App. 4th 1519, 1529, 8 Cal. Rptr. 2d 385, 391 (1992) (holding that "the right to continue operating an established business in which [the owner] has made a substantial investment" is a fundamental vested right).

Imposition of the Additional Conditions will precipitate the collapse of the Prime Sale and likely lead to the closing of St. Francis. The Debtors' right to preserve St. Francis' operations, by means of a sale to Prime, is a fundamental vested right that is abrogated by the Attorney General's attempt to impose the Additional Conditions. Consequently, the Court reviews the Attorney General's decision under the independent judgment test.

*ii. In Imposing the Additional Conditions, the Attorney General Abused His Discretion*

Under certain circumstances, the sale of a not-for-profit healthcare facility is subject to review by the Attorney General. Cal. Corp. Code § 5914. The Legislature enacted Cal. Corp. Code § 5914 to ensure that the public was not deprived of the benefits of charitable health facilities as a result of the transfer of those facilities' assets to for-profit entities. In enacting § 5914, the Legislature found:

Charitable, nonprofit health facilities have a substantial and beneficial effect on the provision of health care to the people of California, providing as part of their charitable mission uncompensated care to uninsured low-income families and under-compensated care to the poor, elderly, and disabled.

Transfers of the assets of nonprofit, charitable health facilities to the for-profit sector, such as by sale, joint venture, or other sharing of assets, directly affect the charitable use of those assets and may affect the availability of community health care services....

It is in the best interests of the public to ensure that the public interest is fully protected whenever the assets of a charitable nonprofit health facility are transferred out of the charitable trust and to a for-profit or mutual benefit entity.

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1996 Cal. Legis. Serv. Ch. 1105 (A.B. 3101) (West).

The Attorney General has "discretion to consent to, give conditional consent to, or not consent to" the sale of a healthcare facility. Cal. Corp. Code § 5917. In exercising that discretion, the Attorney General "shall consider any factors that the Attorney General deems relevant," including but not limited to whether any of the following apply:

- a) The terms and conditions of the agreement or transaction are fair and reasonable to the nonprofit corporation.
- b) The agreement or transaction will result in inurement to any private person or entity.
- c) Any agreement or transaction that is subject to this article is at fair market value. In this regard, "fair market value" means the most likely price that the assets being sold would bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and in their own best interest, and a reasonable time being allowed for exposure in the open market.
- d) The market value has been manipulated by the actions of the parties in a manner that causes the value of the assets to decrease.
- e) The proposed use of the proceeds from the agreement or transaction is consistent with the charitable trust on which the assets are held by the health facility or by the affiliated nonprofit health system.
- f) The agreement or transaction involves or constitutes any breach of trust.
- g) The Attorney General has been provided, pursuant to Section 5250, with sufficient information and data by the nonprofit corporation to evaluate adequately the agreement or transaction or the effects thereof on the public.
- h) The agreement or transaction may create a significant effect on the availability or accessibility of health care services to the affected community.
- i) The proposed agreement or transaction is in the public interest.
- j) The agreement or transaction may create a significant effect on the availability and accessibility of cultural interests provided by the facility in the affected community.

Cal. Corp. Code § 5917 (West).

Nothing in the record indicates that Prime's bid was other than for fair market



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value (factor (c)). St. Francis was thoroughly marketed by Cain Brothers. Prime was the only bidder interested in purchasing the Hospitals. The Court must presume that a bid submitted after extensive marketing reflects the St. Francis fair market value. *See Bank of Am. Nat. Tr. & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 457, 119 S. Ct. 1411, 1423, 143 L. Ed. 2d 607 (1999) (stating that "the best way to determine value is exposure to a market"). [Note 7]

There is no indication that Prime, or any other party, took any actions to decrease the value of St. Francis (factor (d)). In view of the extensive marketing, the terms of the sale are fair and reasonable (factor (a)). There is no evidence that any of the parties involved in the Prime Sale have engaged in any conduct that would amount to a breach of trust (factor (f)), or that the Prime Sale will inure to the benefit of any private person or entity (factor (b)). Nor has there been any suggestion that the Debtors failed to provide the Attorney General with sufficient information to evaluate the Prime Sale (factor (g)). Factor (e) does not apply, because the proceeds of the Prime Sale are fully encumbered by the claims of creditors, leaving no remaining equity that could be devoted to charitable purposes.

The remaining factors are (1) the effect of the Prime Sale on the accessibility of healthcare services (factor (h)) and cultural interests (factor (j)) in the affected communities and (2) whether the Prime Sale is in the public interest (factor (i)). Applying the independent judgment standard of review, the Court finds that in electing to impose the Additional Conditions, the Attorney General abused his discretion with respect to these factors.

The Prime Sale will not close if the Additional Conditions are imposed. The most likely result of the failure of the Prime Sale will be the closure of St. Francis. Therefore, imposition of the Additional Conditions will dramatically reduce, rather than preserve, the availability of healthcare services. That is not in the public interest.

Having overseen the Debtors' bankruptcy cases since their inception, the Court has become intimately familiar with the Debtors' operational and cash flow situation. The Court does not view the Debtors' representations regarding the likely closure of St. Francis as an idle threat.

The Court understands that the Additional Conditions were imposed with the laudable objective of increasing the amount of healthcare services provided by St. Francis. The Court can only assume that the Attorney General does not believe the representation that imposition of the Additional Conditions will result in a collapse of the Prime Sale. Unfortunately, the dire economic circumstances in which the Debtors now find themselves leaves the Court with little doubt that if the Prime Sale is not

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completed, St. Francis will almost certainly close. The Debtors have already been required to close one of their hospitals, St. Vincent Medical Center, as the result of the failure of the SGM Sale.

Because the Additional Conditions will reduce health care services by resulting in the closure of St. Francis, imposition of the Additional Conditions was an abuse of the Attorney General's discretion.

Outside of bankruptcy, the finding that the Attorney General abused his discretion would result in the entry of a judgment commanding the issuance of a peremptory writ of mandate, followed by the issuance of the writ. The writ would command the Attorney General to set aside the Additional Conditions, and would further command the Attorney General to exercise his discretion with respect to the review of the Prime Sale in a lawful manner. *See, e.g., California Hosp. Assn. v. Maxwell-Jolly*, 188 Cal. App. 4th 559, 570, 115 Cal. Rptr. 3d 572, 581 (2010), *as modified on denial of reh'g* (Sept. 16, 2010).

BAPCPA § 1221(e) compels a different result inside bankruptcy. Section 1221(e) provides that the Court is not required "to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property." In *In re HHH Choices Health Plan*, the Bankruptcy Court relied upon BAPCPA § 1221(e) to conclude that it had the authority to interpret a New York law governing the transfer of the assets of a non-profit entity. The court observed that "[i]n the case of an insolvent not-for-profit corporation, section 511 of the New York Not-For-Profit Corporation Law ordinarily, would require the approval of the New York State Supreme Court for a transfer of assets." *HHH Choices Health Plan*, 554 B.R. at 700. The court rejected arguments advanced by certain of the parties "that the ordinary state court procedures must still be followed" with respect to the transfer of the assets. *Id.* Instead, the court held that substantive state law requirements remained applicable, but that it was the Bankruptcy Court that had authority to apply those requirements. *Id.*

Pursuant to BAPCPA § 1221(e), and consistent with the ruling in *HHH Choices Health Plan*, the Court is not required to issue a judgment and writ commanding the Attorney General to set aside the Additional Conditions, and is not required to remand these proceedings to allow the Attorney General to conduct a further review of the Prime Sale in light of the Court's finding that the Attorney General abused his discretion. Instead, the Court is empowered to apply Cal. Corp. Code § 5914, and to determine the conditions under which the Debtors may sell St. Francis to Prime.

Under the circumstances presented here, the only way that the Prime Sale can

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close, and the closure of St. Francis can be avoided, is if a sale not subject to the Additional Conditions is approved. A decision by the Attorney General to not consent to the sale, or a decision to consent to the sale subject to the Additional Conditions, would constitute an abuse of discretion.

In reaching this conclusion, the Court is not limiting or controlling the discretion vested in the Attorney General, in contravention of Cal. Code Civ. Proc. § 1094.5(f). St. Francis has been financially distressed for years. A \$100 million capital infusion made in connection with the 2015 Restructuring Agreement failed to stabilize St. Francis' operations. A further capital infusion of \$148 million in 2017 failed to restore St. Francis to financial health. This demonstrates that it was not possible to successfully operate St. Francis subject to the 2015 Conditions. It should come as no surprise that no buyer exists that is willing to purchase and operate the Hospitals if operations are constrained by Additional Conditions that are substantially similar to the 2015 Conditions. The Attorney General's continued attempts to impose conditions rendering sustainable operation of the Hospitals impossible amounts to an abuse of discretion.

The Attorney General contends that Prime, by refusing to purchase and operate the Hospitals subject to the Additional Conditions, is attempting to divest the Attorney General of his regulatory authority by forcing him to accede to a transaction on Prime's terms. This argument ignores the financial and operational realities facing St. Francis. Prime's refusal to accept the Additional Conditions is not an attempt to blackmail the Attorney General into approving the sale. Such refusal is instead dictated by economic reality.

*iii. Even if the Attorney General's Decision is Subject to Traditional Mandamus Review Under Cal. Civ. Proc. Code § 1085, Imposition of the Additional Conditions Was an Abuse of Discretion*

Even if the Attorney General's review of the sale transaction is a quasi-legislative decision, subject to traditional mandamus review under Cal. Civ. Proc. Code § 1085, the decision to impose the Additional Conditions was an abuse of discretion.

Under Cal. Civ. Proc. Code § 1085, a traditional mandate "may issue to correct the exercise of discretionary legislative power, *but only* if the action taken is so palpably unreasonable and arbitrary as to show an abuse of discretion as a matter of law." *Carrancho v. California Air Res. Bd.*, 111 Cal. App. 4th 1255, 1265, 4 Cal. Rptr. 3d 536, 545 (2003) (emphasis in original). In reviewing quasi-legislative decisions, the

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"authority of the court is limited to determining whether the decision of the agency was arbitrary, capricious, entirely lacking in evidentiary support, or unlawfully or procedurally unfair." *Fullerton Joint Union High Sch. Dist. v. State Bd. of Educ.*, 32 Cal. 3d 779, 786, 654 P.2d 168, 172 (1982). The Court must ensure that the agency or officer making the decision "has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute." *W. States Petroleum Assn. v. Superior Court*, 9 Cal. 4th 559, 577, 888 P.2d 1268, 1277 (1995). Traditional mandamus review of a quasi-legislative decision is therefore more deferential than administrative mandamus review of a quasi-judicial decision under the independent judgment standard.

Even applying this more deferential standard of review, the Court finds that the decision to impose the Additional Conditions was an abuse of discretion, and that a proper exercise of discretion required the Attorney General to consent to the sale without seeking to impose the Additional Conditions. Preservation of access to healthcare is one of the factors the Attorney General must consider in reviewing the transaction. *See* Cal. Corp. Code § 5917(h) (requiring the Attorney General to consider whether the "agreement or transaction may create a significant effect on the availability or accessibility of health care services to the affected community"). The effect of the Additional Conditions will be the closure of St. Francis, which will significantly reduce access to healthcare. There is no "rational connection" between the purpose of the Additional Conditions (preserving healthcare access) and the actual results of the conditions (a severe reduction in healthcare access). *See W. States Petroleum Ass'n*, 888 P.2d at 1277. The Attorney General's decision will destroy the very charitable assets that he is charged with protecting.

In sum, regardless of whether the Debtors are entitled to review of the Attorney General's decision under traditional mandamus or administrative mandamus, the Attorney General's decision to impose the Additional Conditions was an abuse of discretion. In the unique circumstances of this case, the Attorney General was required to consent to the Prime Sale without imposing the Additional Conditions. As a result, sale of St. Francis to Prime free and clear of the Additional Conditions is authorized under applicable nonbankruptcy law. The Court approves the Prime Sale, free and clear of the Additional Conditions, pursuant to § 363(f)(1).

**C. The Debtors May Sell St. Francis Free and Clear of the Additional Conditions Pursuant to § 363(f)(4)**

Under § 363(f)(4), St. Francis may be sold free and clear of the Additional

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Conditions provided the Additional Conditions are "in bona fide dispute ..." A bona fide dispute exists if "there is an objective basis for either a factual or legal dispute as to the validity" of the interest at issue. *In re Octagon Roofing*, 123 B.R. 583, 590 (Bankr. N.D. Ill. 1991). The court "court need not determine the probable outcome of the dispute, but merely whether one exists." *Id.*

The Debtors dispute the Attorney General's authority to impose the Additional Conditions, on the grounds that the (1) Additional Conditions attempt to impose successor liability in a manner not authorized under California law and that (2) the Attorney General abused his discretion in issuing the Additional Conditions. As discussed above, the Debtors have shown that the Attorney General cannot impose the Additional Conditions for both of these reasons. The Debtors have easily satisfied § 363(f)(4), which does not require the Debtors to show that they will prevail upon the dispute—only that a dispute exists.

With respect to the charity care and community benefit conditions, a bona fide dispute exists for yet another reason. The Debtors have shown that by imposing these conditions, the Attorney General violated § 525.

Section 525 provides in relevant part:

[A] governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title ... or another person with whom such ... debtor has been associated, solely because such ... debtor is or has been a debtor under this title ... or has not paid a debt that is dischargeable in the case under this title ....

In *In re Aurora Gas, LLC*, the court held that the State of Alaska violated § 525 by refusing to approve the debtor's sale of oil and gas leases unless the purchaser posted a bond of \$6 million to pay for the cost of plugging abandoned wells that the purchaser was not acquiring. *In re Aurora Gas, LLC*, No. A16-00130-GS, 2017 WL 4325560 (Bankr. D. Alaska Sept. 26, 2017). The court held that by conditioning approval of the sale upon the posting of a bond, the State was attempting to collect upon the debtor's obligation to pay for the costs of plugging the abandoned wells. Imposition of such a condition, the court found, constituted impermissible discrimination against the debtor and its affiliate, the purchaser of the gas leases, in

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violation of § 525.

The facts of this case are strikingly similar. The Attorney General's consent is akin to a "license," "permit," or "franchise," within the meaning of § 525, since that consent is necessary for Prime to close the transaction. The Attorney General has conditioned approval of the Prime Sale upon Prime assuming charity care and community benefit obligations similar to the 2015 Conditions that are an obligation of the Debtors. In so doing, the Attorney General is attempting to enforce the charity care and community benefit liabilities imposed by the 2015 Conditions. The 2015 Conditions are liabilities that are dischargeable in bankruptcy, and by attempting to enforce them in connection with the Prime Sale, the Attorney General is impermissibly discriminating against the Debtors in violation of § 525.

The fact that the charity care and community benefit liabilities can be characterized as a regulatory obligation does not change the analysis. As the Supreme Court has explained:

Under the Bankruptcy Code, "debt" means "liability on a claim," 11 U.S.C. § 101(12), and "claim," in turn, includes any "right to payment," § 101(5)(A). We have said that "[c]laim" has "the broadest available definition," *Johnson v. Home State Bank*, 501 U.S. 78, 83, 111 S.Ct. 2150, 115 L.Ed.2d 66 (1991), and have held that the "plain meaning of a 'right to payment' is nothing more nor less than an enforceable obligation, regardless of the objectives the State seeks to serve in imposing the obligation," *Pennsylvania Dept. of Public Welfare v. Davenport*, 495 U.S. 552, 559, 110 S.Ct. 2126 (1990). See also *Ohio v. Kovacs*, 469 U.S. 274, 105 S.Ct. 705, 83 L.Ed.2d 649 (1985). In short, a debt is a debt, even when the obligation to pay it is also a regulatory condition.

*F.C.C. v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 302–03, 123 S. Ct. 832, 839, 154 L. Ed. 2d 863 (2003).

**D. The Debtors May Sell the St. Francis Free and Clear of the Charity Care and Community Benefit Conditions Pursuant to § 363(f)(5)**

Under § 363(f)(5), property may be sold free and clear of an interest, if the entity holding the interest "could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest."

An interest "that can be reduced to a specific monetary value" falls within the

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scope of § 363(f)(5). *In re Trans World Airlines, Inc.*, 322 F.3d 283, 291 (3d Cir. 2003); *see also In re Vista Marketing Grp. Ltd.*, 557 B.R. 630, 635 (Bankr. N.D. Ill. 2016) ("[O]ne would be hard-pressed to present a clearer example of a situation where the interest-holder could be compelled to accept a money satisfaction of its interest under subsection (f)(5) than the calculable monetary obligation asserted by the District in its surcharge bill and disconnection notice.").

The charity care and community benefit conditions require St. Francis to provide specified levels of charity care and community benefit services. Any shortfalls can be satisfied through deficiency payments to tax-exempt entities within St. Francis' service area. The charity care and community benefit obligations can easily be reduced to a specific monetary value. The Debtors may sell the St. Francis free and clear of these obligations pursuant to § 363(f)(5).

**E. Section 363(d)(1) Does Not Bar the Sale**

As noted, § 363(d)(1) provides that non-profit entities, such as the Debtors, may sell estate assets only if the sale is "in accordance with nonbankruptcy law applicable to the transfer of property by" a non-profit entity.

For the reasons discussed in Section II.B., above, the Debtors are authorized to sell St. Francis, free and clear of the Additional Conditions, under applicable nonbankruptcy law.

Even if the Debtors were not authorized to sell the St. Francis free and clear under applicable nonbankruptcy law, § 363(d)(1) does not limit the Debtors' ability to sell St. Francis free and clear of the Additional Conditions under § 363(f)(4) or (5). **[Note 8]** Basic principles of statutory construction dictate this result. "Statutory construction ... is a holistic endeavor." *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 371, 108 S. Ct. 626, 630, 98 L. Ed. 2d 740 (1988). The Court must look "to the provisions of the whole law, and to its object and policy." *John Hancock Mut. Life Ins. Co. v. Harris Tr. & Sav. Bank*, 510 U.S. 86, 94–95, 114 S. Ct. 517, 523, 126 L. Ed. 2d 524 (1993). Absent a "clear intention otherwise," specific provisions addressing an issue apply instead of more generalized provisions covering the same issue. *Morton v. Mancari*, 417 U.S. 535, 550–51, 94 S. Ct. 2474, 2483, 41 L. Ed. 2d 290 (1974). This rule applies "regardless of the priority of enactment" of the provisions. *Id.*

Section 363(f) sets forth specific circumstances under which assets may be sold free and clear. Section 363(f) is not limited by a non-profit debtor's general obligation under § 363(d)(1) to comply with nonbankruptcy law. The general requirement set

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forth in § 363(d)(1) makes no reference to § 363(f), which more specifically delineates the circumstances in which assets may be sold free and clear. Without a "clear intention otherwise," *Morton*, 417 U.S. at 550–51, the general requirement of § 363(d)(1) does not repeal the specifics of free and clear sales under § 363(f), even though § 363(d)(1) was enacted subsequent to § 363(f).

**F. Section 541(f) Does Not Bar the Sale**

Section 541(f) provides:

Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.

The Attorney General asserts that § 541(f)'s initial clause, "[n]otwithstanding any other provision of this title," is broad enough to trump § 363(f). According to the Attorney General, § 541(f) requires that the Prime Sale comply with applicable California law. As a result, the Attorney General argues, the Prime Sale can occur only if SGM agrees to accept all of the 2019 Conditions, including the Additional Conditions.

The language of § 541(f) is similar, but not identical to, the language of § 363(d)(1). Section 363(d)(1) requires that non-profit entities transfer property "in accordance with nonbankruptcy law applicable to the transfer of property by" the non-profit entity; § 541(f) requires that such transfers occur "only under the same conditions as would apply if the debtor had not filed a case under this title."

"[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *Russello v. United States*, 464 U.S. 16, 23, 104 S. Ct. 296, 300, 78 L. Ed. 2d 17 (1983). Therefore, the Court cannot assume that § 541(f) has the same meaning as § 363(f). That is, § 541(f) cannot mean that the Debtors are required to transfer property "in accordance with nonbankruptcy law applicable to the transfer of [such] property," since that is the language used in § 363(d)(1).

There is no legislative history to guide the Court in construing the phrase "under



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the same conditions" in § 541(f). Nor has the Court been able to locate any cases interpreting this section. In the absence of legislative history, phrases are construed in accordance with their "ordinary or natural meaning." *F.D.I.C. v. Meyer*, 510 U.S. 471, 476, 114 S. Ct. 996, 1001, 127 L. Ed. 2d 308 (1994). According to *Roget's 21st Century Thesaurus* (3d ed. 2013), a synonymous phrase for "under the same conditions" is "in these circumstances."

Here, the Debtors have complied with § 541(f)'s mandate. That is, "[n]otwithstanding any other provisions" of the Bankruptcy Code, they have sought to transfer St. Francis in the same manner as the transfer would have occurred under applicable nonbankruptcy law. The Debtors submitted the transfer to the review of the Attorney General, paid for the expert healthcare impact statements required under the statute, and waited for 90 days for the Attorney General to review the transaction. The transfer has been subject to the same conditions that would have applied had the Debtors not sought bankruptcy protection.

Even if the Attorney General were correct that § 541(f) had the same meaning as § 363(d)(1), the Debtors would still be able to sell the St. Francis free and clear of the Additional Conditions, pursuant to § 363(f)(1), (4), and (5). Contrary to the Attorney General's contention, the "notwithstanding" clause does not mean that § 541(f) trumps § 363(f). The Ninth Circuit has held:

In examining specific statutes, we have not, however, always accorded universal effect to the "notwithstanding" language, standing alone. *See Or. Natural Res. Council v. Thomas*, 92 F.3d 792, 796 (9th Cir.1996) ("We have repeatedly held that the phrase 'notwithstanding any other law' is not always construed literally." (citing *E.P. Paup Co. v. Dir., Office of Workers Comp. Programs*, 999 F.2d 1341, 1348 (9th Cir.1993); *Kee Leasing Co. v. McGahan (In re The Glacier Bay)*, 944 F.2d 577, 582 (9th Cir.1991); *Golden Nugget, Inc. v. Am. Stock Exch., Inc.*, 828 F.2d 586, 588–89 (9th Cir.1987) (per curium))). Instead, we have determined the reach of each such "notwithstanding" clause by taking into account the whole of the statutory context in which it appears.

*United States v. Novak*, 476 F.3d 1041, 1046 (9th Cir. 2007).

Relying upon the "common-sense principle of statutory construction that sections of a statute generally should be read to give effect, if possible, to every clause," the Ninth Circuit has held that a "notwithstanding" provision should not be given its

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**Chapter 11**

broadest possible interpretation if doing so would render other statutory provisions ineffectual. *Oregon Nat. Res. Council v. Thomas*, 92 F.3d 792, 797 (9th Cir. 1996).

According to the "notwithstanding" clause the broad construction advocated by the Attorney General would render § 363(f) of the Bankruptcy Code ineffectual with respect to non-profit debtors. The elimination of § 363(f) from a non-profit debtor's toolkit would meaningfully circumscribe the ability of non-profit debtors to reorganize their debts in a Chapter 11 proceeding. Sales under § 363 are the most efficient way for a debtor to obtain the highest price for its assets, which in turn yields the greatest recovery to creditors. Barring non-profit debtors from taking advantage of this valuable tool would not be in the public interest.

Section 541(f) was added to the Bankruptcy Code by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, § 1221(e) ("BAPCPA"). BAPCPA made no changes to § 363(f). The Court cannot find that Congress intended § 541(f) to trump § 363(f) with respect to non-profit debtors.

### **III. Conclusion**

Based upon the foregoing, the Court finds that the Debtors may sell St. Francis to Prime, free and clear of the Additional Conditions. The sale may proceed under applicable nonbankruptcy law pursuant to § 363(f)(1) because (1) the Additional Conditions qualify as successor liability that may not be imposed against SGM under California law and because (2) the Attorney General abused his discretion in attempting to impose the Additional Conditions, which therefore must be set aside. A bona dispute as to the Attorney General's authority to impose the Additional Conditions exists under § 363(f)(4), because the Debtors (1) have shown that the Additional Conditions are not authorized under California law and that (2) the attempted imposition of the charity care and community benefit conditions violates § 525. Pursuant to §363(f)(5), the sale is free and clear of the charity care and community benefit obligations, which can be reduced to a monetary valuation.

#### **Note 1**

For a description of the Santa Clara Sale, see *In re Verity Health Sys. of California, Inc.*, 598 B.R. 283 (Bankr. C.D. Cal. 2018) ("*Verity I*").

#### **Note 2**

The Approved Conditions are set forth in Exhibit 5.8(c) to the APA.

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**Note 3**

*See Verity I*, 598 B.R. at 293 ("The Conditions [imposed by the Attorney General] are an 'interest in property' within the meaning of § 363(f). The Conditions provide that any owner of the Hospitals must furnish specified levels of emergency services, intensive care services, cardiac services, and various other services. The required service levels were derived based upon the historical experience of the prior operator. As such, the Conditions are monetary obligations arising from the ownership of property.").

**Note 4**

*See generally Verity I.*

**Note 5**

As nonprofit public benefit corporations, the Debtors do not have stockholders.

**Note 6**

This provision of BAPCPA does not appear in the Bankruptcy Code itself.

**Note 7**

On August 7, 2020, the Court enter an order and corresponding memorandum of decision striking from the record an opposition to the Motion filed by Prospect Medical ("Prospect"). *See* Doc. Nos. 5399 (the "Prospect Memorandum") and 5401 (the "Prospect Order"). Notwithstanding the fact that Prospect's opposition has been stricken, the Court finds it appropriate to briefly address Prospect's assertion that it is willing to purchase St. Francis subject to all of the Additional Conditions at a higher price than that offered by Prime.

At this late stage, Prospect's offer cannot be considered a serious alternative to the Prime Sale. First, the offer is contingent upon a ten-day due diligence period. Therefore, there can be no assurance that Prospect will proceed with its offer. Second, the Court has not been provided sufficient information regarding the offer to ascertain whether it really is superior to the Prime Sale. Third, even if the offer is superior to the Prime Sale and the contingency risk is disregarded, a sale to Prospect would require another 90-day review period by the Attorney General. The Debtors lack sufficient funds to continue operating St. Francis during the time it would take to complete another sale.

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**Note 8**

Under § 363(f)(4), the Debtors are authorized to sell St. Francis free and clear of all of the Additional Conditions. *See* Section II.C., above. Under § 363(f)(5), the Debtors are authorized to sell St. Francis free and clear of the charity care and community benefit obligations. *See* Section II.D., above.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#10.20** Hearing re [5424] Seventh Omnibus Motion To Reject, Pursuant To 11 U.S.C. § 365(A), Certain Payor, Administrative And Risk-Sharing Agreements

Docket 0

**Tentative Ruling:**

8/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Subject to any opposition which may be presented at the hearing, the Court is prepared to **GRANT** the Emergency Motion.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Emergency Motion and Seventh Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Executory Contracts and Unexpired Leases [Doc. No. 5424] (the "Emergency Motion")
- 2) Order Setting Hearing on Seventh Omnibus Motion to Reject Payor, Administrative, and Risk-Sharing Agreements [Doc. No. 5441]
- 3) Opposition may be presented at the hearing

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' Chapter 11 cases are being jointly administered.

The Debtors move, on an emergency basis, for authorization to reject agreements (the "Agreements") between St. Francis Medical Center ("SFMC") and various health benefit plan payors and medical groups (collectively, the "Payors") pursuant to § 365(a), with rejection to take effect as of the closing date (the "Closing Date") of the sale of SFMC to Prime (the "Prime Sale"). The Prime Sale is projected to close on

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August 13, 2020. Debtors state that rejection is necessary to avoid the incurrence of administrative expense liability under the Agreements following the Closing Date.

## **II. Findings and Conclusions**

Section 365(a) provides that the Debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Casterter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreements. The Debtors have demonstrated that the Agreements are no longer necessary in view of the sale of SFMC to Prime. Rejection of the Agreements shall be effective as of the Closing Date of the Prime Sale.

The deadline for counterparties to the Agreements to file a proof of claim arising from the rejection of the applicable Agreement, pursuant to Bankruptcy Rule 3002(c)(4), shall be **September 28, 2020** (the "Rule 3002(c)(4) Claims Bar Date"). Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by counterparties no later than **August 19, 2020**. Debtors shall file a proof of

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service of such notice by no later than **August 19, 2020**.

**Chapter 11**

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED**. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

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

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

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**2:15-16851 Michael Thomas Grumbine**

**Chapter 7**

**#11.00** HearingRE: [89] Motion For Sale of Property of the Estate under Section 363(b) - No Fee Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Esate's Right, Titel and Interest in Certain Personal Property; (2) Approving Overbid Procedures; and (3) Waiving Rule 6004(h) Stay; Declaration in Support (Pagay, Carmela)

Docket 89

**Tentative Ruling:**

8/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived. The Trustee shall direct potential overbidders, if any, to contact the above-referenced number prior to the hearing.**

For the reasons set forth below, the Sale Motion is GRANTED. The Court will conduct the sale auction in accordance with the procedures set forth below.

**Key Sale Terms:**

- 1) Proposed purchaser: Foot Technologies, Inc. ("FTI")
- 2) Property for sale: Interest in royalty payments, as well as any assets, patents, and/or trademarks held by Belize Investment Services, Inc. ("BIS")
- 3) Purchase price: \$75,000
- 4) Overbids: The initial overbid shall be \$5,000. Subsequent overbids shall be in increments of \$1,000.

**Pleadings Filed and Reviewed:**

- 1) Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Estate's Right, Title, and Interest in Certain Personal Property; (2) Approving Overbid Procedure; and (3) Waiving Rule 6004(h) Stay [Doc. No. 89] (the "Motion")
  - a) Notice of [Motion] [Doc. No. 90]
  - b) Notice of Sale of Estate Property [Doc. No. 91]
- 2) As of the preparation of this tentative ruling, there is no opposition to the Sale



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**CONT... Michael Thomas Grumbine**  
Motion on file

**Chapter 7**

**I. Facts and Summary of Pleadings**

Michael Thomas Grumbine (the "Debtor") commenced a voluntary chapter 7 petition on April 29, 2015 (the "Petition Date"). Heide Kurtz was appointed the chapter 7 trustee (the "Trustee"). Prior to the Petition Date, the Debtor became involved in a state court action titled *Diane E. DePould, et al. v. Michael Grumbine, et al.*, Case No. VC062662 (the "State Court Action"), which was pending before the Los Angeles Superior Court (the "State Court"). The State Court Action alleged that the Debtor had improperly transferred an interest in certain royalty payments owed by FTI to Belize Investment Services, Inc. ("BIS"), an entity controlled by the Debtor. On or about April 16, 2015, the State Court entered a statement of decision, which precluded BIS or the Debtor from receiving any royalties and instead directed the disbursement of payments to the Trustee. The Trustee subsequently received an offer from FTI to purchase the estate's interest in the royalty payments, as well as any assets held by BIS (collectively, the "Assets") for \$75,000, subject to overbids in advance of the upcoming auction. The terms of FTI's offer have been incorporated into a purchase agreement executed by the parties on or about July 20, 2020 (the "Agreement"). See Declaration of Heide Kurtz ("Kurtz Decl."), Ex. 1 (copy of the Agreement).

The Trustee requests approval of the Motion and the Agreement pursuant to § 363(b). The Trustee asserts that the sale of the Assets is reasonable under the circumstances, supported by sound business judgment, and accounting for costs of sale, the proposed consideration is fair and reasonable. The Trustee argues that the sale will generate a significant increase to the already sizeable pool of funds the estate holds in the sum of \$109,700.32. [Note 1]. In addition to paying off all administrative expenses, the Trustee anticipates satisfying approximately 70% of allowed unsecured claims. The Trustee posits that delaying approval of the Motion is not recommended as future royalty payments are expected to decrease due to financial exigencies caused by the COVID-19 pandemic. See Kurtz Decl., ¶ 6. The Trustee is not aware of any liens or encumbrances against the Assets. The sale is subject to overbids. Finally, the Trustee requests waiver of the 14-day waiting period imposed by Fed. R. Bank. P. 6004(h).

As of the preparation of this tentative ruling, no opposition to the Motion is on

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file.

**Chapter 7**

## **II. Findings and Conclusions**

Section 363(b) permits the Trustee to sell estate property out of the ordinary course of business, subject to court approval. The Trustee must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19-20 (B.A.P. 9th Cir. 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19-20.

The Trustee has demonstrated sufficient business justification for the sale, which will generate a considerable pool of funds, provide the estate with an opportunity to maximize recovery through the overbid procedures, and allow the Trustee to pay all administrative expenses, priority claims, and about 70% of allowed unsecured claims. Further, the sale is in accordance with the Trustee's statutory obligation to liquidate the estate's assets.

### **Auction Procedures**

As a result of the COVID-19 pandemic, the courtroom is unavailable for in-court appearances. All potential overbidders must appear by telephone only. In the event that any qualified overbidder makes a telephonic appearance, the Court will conduct an auction in accordance with the procedures set forth in the Motion. The initial overbid shall be \$5,000 above the purchase price with subsequent overbids to be in increments of \$1,000. The overbid increment is subject to adjustment by the Court to facilitate bidding. The Court will announce each bid level. To remain in the auction, bidders must participate at all bid levels. That is, parties who do not bid in a round cannot later change their minds and re-enter the auction. Parties may make a bid higher than that announced by the Court by clearly stating their bid. Additional overbidding procedures proposed by the Trustee are approved as set forth in the Motion.

## **III. Conclusion**

Based upon the foregoing, the Sale Motion is GRANTED. Notwithstanding Bankruptcy Rule 6004(h), the order approving the sale shall take immediate effect upon entry.

The Trustee shall submit a conforming order, incorporating this tentative ruling by

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**CONT... Michael Thomas Grumbine**

**Chapter 7**

reference, within seven (7) days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The total funds held by the estate are current as of July 13, 2020.

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

**Debtor(s):**

Michael Thomas Grumbine

Represented By  
Michael E Clark

**Trustee(s):**

Heide Kurtz (TR)

Represented By  
Carmela Pagay

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**Wednesday, August 12, 2020**

**Hearing Room 1568**

10:00 AM

**2:13-27702 Morad Javedanfar**

**Chapter 7**

Adv#: 2:15-01363 JL AM Plus, LLC v. Neman et al

**#12.00** Hearing  
RE: [366] Application for Attorneys' Fees on Appeal Pursuant to Court's  
Memorandum of Decision. (Hewlett, Douglas)

Docket 366

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8-19-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Morad Javedanfar

Represented By  
Andre A Khansari

**Defendant(s):**

Morad Neman

Represented By  
Yuriko M Shikai  
Timothy L Neufeld  
Jennifer B MikoLevine

MBN Real Estate Investments, LLC

Represented By  
Stephen F Biegenzahn  
Jennifer B MikoLevine  
Paul S Marks

**Joint Debtor(s):**

Yaffa Javedanfar

Represented By  
Andre A Khansari

**Plaintiff(s):**

JL AM Plus, LLC

Represented By  
Douglas S Hewlett

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**CONT... Morad Javedanfar**

**Chapter 7**

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Anthony A Friedman

**United States Bankruptcy Court  
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**Monday, August 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15016 Laquanda Iman Cotton**

**Chapter 7**

**#1.00** HearingRE: [14] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 MINI Hardtop 2 Door Cooper Hatchback 2D . (Johnson, Marjorie)

Docket 14

**Tentative Ruling:**

8/12/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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**CONT... Laquanda Iman Cotton**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Laquanda Iman Cotton

Represented By  
Raymond Perez

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
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**Tuesday, August 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-24265 Neilla M Cenci**

**Chapter 7**

**#1.00** HearingRE: [75] Motion to Approve Compromise Under Rule 9019 and Approve Form of Property Exchange Agreement with Debtor Neilla M. Cenci; Declarations of James Christopher Ball and Ronald P Slates In Support

Docket 75

**Tentative Ruling:**

8/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED, and the Property Exchange Agreement is APPROVED in full. Based on the foregoing, the Motion is GRANTED, and the Property Exchange Agreement is APPROVED in full. Based on the order entered on July 21, 2020 [Doc. No. 80], the hearing on the Homestead Exemption Objection, set for December 16, 2020 at 11:00 a.m., shall be VACATED following the entry of a conforming proposed order.

**Pleadings Filed and Reviewed**

1. Notice of Creditor's Motion and Motion for Order Approving Compromise and Approving Form of Property Exchange Agreement with Debtor Neilla M. Cenci [Doc. No. 75] (the "Motion")
2. Notice of Motion [Doc. No. 76]
3. Order Approving Stipulation by and Between Creditor and Debtor to: (1) Continue Hearing on Creditor's Objection to Homestead Exemption and (2) Extend Opposition and Reply Deadlines [Doc. No. 80]
4. As of the date of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Neilla M. Cenci (the "Debtor") filed a voluntary chapter 7 petition on December 6, 2018 (the "Petition Date"). On *Schedule A/B: Property*, the Debtor asserts an



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**CONT...**

**Neilla M Cenci**

**Chapter 7**

ownership interest in real property located at 26903 Avenida Terraza, Santa Clarita, CA 91350 (the "Property"), with an estimated fair market value of \$418,000. *See* Doc. No. 1 at 11. The Property is subject to a senior secured interest held by SunTrust Bank ("SunTrust") in the amount of \$181,876.55. *See* Doc. No. 1 at 19. Creditor Ball C M, Inc. ("Movant") is the estate's largest creditor and the Debtor's former employer. As part of her employment with the Movant, the Debtor was enrolled in a 401k retirement account administered by Paychex, Inc. ("Paychex") on behalf of the Movant (the "Retirement Account"). *See* Declaration of Ronald P. Slates ("Slates Decl."), Ex. 1 (copy of the underlying property exchange agreement).

**Background**

On February 14, 2019, the Movant filed a motion seeking to disallow the Debtor's \$175,000 homestead exemption pursuant to § 522(o) [Doc. No. 27] (the "Homestead Exemption Objection") [Note 1]. On March 7, 2019, the Movant initiated an adversary proceeding against the Debtor, bearing the case number, 2:19-ap-01065-ER, seeking the nondischargeability of debt under §§ 523(a)(2), (a)(4), and (a)(6) and an objection to discharge under §§ 727(a)(2),(a)(3), (a)(4) and (a)(5) (the "Adversary Proceeding"). In short, both the Homestead Exemption Objection and the Adversary Proceeding are premised on allegations that the Debtor incurred a nondischargeable debt through actions performed during her tenure as a full-time bookkeeper for the Movant. *See Ball C M, Inc. v. Cenci*, 2:19-ap-01065-ER, Adv. Doc. No. 1. Following substantial motion practice, the hearing on the Homestead Exemption Objection was repeatedly continued either on the Court's own motion or the parties' stipulation. A hearing on the Homestead Exemption Objection is currently set for December 16, 2020 at 11:00 a.m. *See* Doc. No. 80. The Adversary Proceeding is pending, and a continued status conference is scheduled for November 17, 2020 at 10:00 a.m. Additionally, the parties' disputes are also subject to litigation in two state court actions: *Ball v. Cenci*, Case No. 18STCV30598, filed on November 7, 2018 and *Ball, et al. v. Cenci, et al.*, Case No. 19STCV30598, filed on August 28, 2019 (collectively, the "State Court Actions").

**The Motion**

On July 16, 2020, the Movant filed the Motion [Doc. No. 75]. The Movant seeks approval of a compromise (the "Property Exchange Agreement" or the "Agreement"), which resolves the parties' ongoing disputes before this Court. The Agreement is a partial resolution that does not settle all of the issues being litigated in the State Court Actions. *See* Slates Decl., Ex. 1 (the Agreement), ¶¶ 15-18. The material terms of the

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**Neilla M Cenci**

**Chapter 7**

Property Exchange Agreement are as follows:

1. The Debtor shall transfer ownership of the Property to the Movant; the Movant is responsible for opening an escrow account with Newhall Escrow ("Newhall") to handle the transfer.
2. The Movant shall payoff the mortgage principal and interest owed to SunTrust through escrow (the total payoff amount is \$198,831.07 as of June 9, 2020).
3. Paychex shall disburse \$47,802.82 to the Debtor.
4. The additional agreed-upon sum of \$8,514.10 shall be disbursed to the Debtor in the form of a check or wire transfer made payable to Newhall for closing costs and fees associated with the transfer of the Property.
5. Paychex shall disburse all remaining funds in the Retirement Account to the Movant.
6. The Debtor shall execute a stipulation and proposed order that constitutes her agreement to consolidate the State Court Actions.
7. The Movant shall file a withdrawal of the Homestead Exemption Objection and/or the Retirement Exemption by no later than 10 days following the entry of a final order approving the Agreement.
8. Subject to the satisfaction of certain conditions, the Adversary Proceeding shall be dismissed by no later than 90 days following the entry of a final order approving the Agreement.

*See* Slates Decl., Agreement. ¶¶ 1-18. [Note 2]

In support of the Property Exchange Agreement, the Movant makes the following arguments based on the factors enumerated in *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986):

1. The risk, expense, inconvenience and delay attributed to continuing litigation favor approval of the Agreement. The parties seek approval of the Agreement to finally resolve their long-standing issues and avoid further delays, legal expense, and risks associated with litigation. *See* Slates Decl., ¶ 3-4; Declaration of James Christopher Ball ("Ball Decl."), ¶¶ 3-5. The Agreement will enable the parties to avoid months of additional litigation.
2. The costs required to collect on a favorable judgment would require great

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expense and further delay. Any difficulties in collecting are "unreasonably burdensome" and "costly across the board." *See* Slates Decl., ¶ 4.

3. The Agreement benefits the interests of creditors by minimizing legal cost and avoiding "emotionally toiling" litigation and uncertainty. *See* Slates Decl., ¶ 4; Ball Decl., ¶¶ 3-5.
4. The Agreement additionally promotes judicial economy by significantly narrowing the parties' disputes. As a result of its approval, the Agreement will dispose of the hearing on the Homestead Exemption Objection and lead to the dismissal of the Adversary Proceeding. *See* Slates Decl., ¶ 3-4.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Bankruptcy Rule 9019(a) permits the Court to approve a compromise or settlement. In the Ninth Circuit, courts consider the following factors in determining the fairness, reasonableness and adequacy of a proposed settlement agreement:

- (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;
- (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

*Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

"Each factor need not be treated in a vacuum; rather, the factors should be considered as a whole to determine whether the settlement compares favorably with the expected rewards of litigation." *In re Western Funding Inc.*, 550 B.R. 841, 851 (B.A.P. 9th Cir. 2016). Furthermore, "compromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (Bankr. D. Ore. 1993). In approving a settlement agreement, the Court

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must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983).

The Court finds that the Property Exchange Agreement is adequate, fair and reasonable, and in the best interest of the estate in accordance with the *A & C Properties* factors.

1. Probability of Success and the Expense, Inconvenience, and Delay of Litigation

Here, this factor weighs in favor of approving the Agreement. Absent a compromise, this matter will most likely necessitate protracted litigation and the adjudication of contested issues of fact and law. The Adversary Proceeding is expected to involve emotionally toiling litigation leading to the parties' frustration and the accumulation of significant legal fees occasioned by discovery, motion practice, and any other delays caused by the COVID-19 pandemic. The Court finds that approval of the Agreement will expeditiously resolve many of the parties' disputes, thereby achieving an adequate resolution for each party. This factor is strongly in favor of the Agreement.

2. Difficulties in Collection

Having reviewed the underlying compromise, the Court finds that the Agreement will enable the expedient resolution of the parties' many disputes. Based on the Slaters Declaration, absent the approval of this compromise, the anticipated difficulties in collecting on a favorable judgment will be "unreasonably burdensome" and "time consuming" for the Movant. Therefore, in consideration of collection difficulties, this factor supports approval of the Agreement.

3. Interests of Creditors

For the various reasons explained above, the interests of creditors and stakeholders will be furthered by approval of the Agreement. By way of the Agreement, the Movant will be granted ownership of the Property, free of any encumbrances, as well as obtain any funds left over in the Debtor's Retirement Account; the Debtor stands to receive a significant portion of funds in her Retirement Account; and the Property's senior lienholder, SunTrust, will be summarily paid on account of its security interest.

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For this reason, the Agreement adequately considers the interests of creditors, and it reduces the likelihood of litigation, thereby avoiding unnecessary costs, delays, and uncertainties. Therefore, this factor strongly weighs in favor of the Agreement.

In sum, the Court determines that the Movant satisfied all of the *A & C Properties* factors, and therefore, the Property Exchange Agreement is approved.

Moreover, the Court has not received any objection to the Motion. Accordingly, pursuant to LBR 9013-1(h), the Court presumes all interested parties consent to the approval of the Agreement.

### **III. Conclusion**

Based on the foregoing, the Motion is GRANTED, and the Property Exchange Agreement is APPROVED in full. Based on the order entered on July 21, 2020 [Doc. No. 80], the hearing on the Homestead Exemption Objection, set for December 16, 2020 at 11:00 a.m., shall be VACATED following the entry of a conforming proposed order.

The Movant is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Concurrently with the Homestead Exemption Objection, the Movant filed a second objection against the Debtor's claimed exemption in funds held in a retirement account managed by the Movant (the "Retirement Exemption Objection"). The

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Retirement Exemption Objection was resolved by an order entered on May 13, 2019.

**Note 2:** Any capitalized terms not defined herein shall have the meaning ascribed in the Agreement. *See* Slates Decl., Ex. 1. Any conflict between the Motion, this tentative ruling, and the Agreement shall be controlled pursuant to the terms of the Agreement.

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

Neilla M Cenci

Represented By  
James R Selth

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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**2:20-12237 Christopher Paul Rabalais**

**Chapter 7**

Adv#: 2:20-01138 Leon v. Rabalais

**#2.00** HearingRE: [10] Motion to deny plaintiff's voluntary dismissal request.

Docket 10

**Tentative Ruling:**

8/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **DENIED**.

**Pleadings Filed and Reviewed:**

- 1) Complaint to Determine Dischargeability of Debt [Doc. No. 1] (the "Complaint")
- 2) Defendant Rabalais's Notice of Motion and Motion to Deny Plaintiff's Voluntary Dismissal Request [Doc. No. 10] (the "Motion")
- 3) Plaintiff Seth Leon's Opposition to Defendant Rabalais' Motion to Deny Voluntary Dismissal Request [Doc. No. 12] (the "Opposition")
- 4) Reply to Plaintiff Seth Leon's Opposition to Defendant Rabalais's Motion to Deny Voluntary Dismissal Request [Doc. No. 13] (the "Reply")

**I. Facts and Summary of Pleadings**

Christopher Paul Rabalais ("Rabalais") filed a voluntary Chapter 7 petition on February 28, 2020. Bankr. Doc. No. 1. On April 29, 2020, Seth Leon ("Leon") moved to dismiss Rabalais' case for abuse, pursuant to § 707. Bankr. Doc. No. 26 (the "Motion to Dismiss").

Among the issues raised by the Motion to Dismiss was whether by filing the instant petition, Rabalais was attempting to discharge a non-dischargeability judgment that had been entered against him and in favor of Leon in a previous Chapter 7 case Rabalais had filed in the Bankruptcy Court for the Southern District of Texas (the "Judgment"). In its order and ruling denying the Motion to Dismiss, the Court held

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that that the instant petition could not discharge the Judgment, and that Rabalais was precluded from attacking the validity of the Judgment in connection with the instant petition. Bankr. Doc. Nos. 37 and 40.

Before the Court entered the order finding that Rabalais could not discharge the Judgment through the instant petition, Leon filed a complaint alleging that the Judgment should be excepted from Rabalais' discharge (the "Complaint," and the action commenced by the Complaint, the "Adversary Proceeding"). Leon stated that the Complaint was filed in an abundance of caution because the Court had not yet entered the order finding that the Judgment remained non-dischargeable. *See* Complaint at n.1 ("Leon believes that the Court has already determined that his debt is non-dischargeable.... Leon has filed this Complaint in an abundance of caution, because there is not yet any final order on the Motion to Dismiss. To the extent this Complaint is not necessary because the Court has already determined that the debt is non-dischargeable, Leon will withdraw this Complaint.").

On July 9, 2020, Rabalais served an Answer to the Complaint upon Leon by first-class mail. On July 10, 2020, before receiving Rabalais' Answer, Leon filed a *Notice of Voluntary Dismissal* [Doc. No. 8] (the "Dismissal Notice") of the Adversary Proceeding. The Dismissal Notice was docketed at 3:27 p.m. on July 10, 2020; Rabalais' Answer was docketed at 11:44 a.m. on July 13, 2020. **[Note 1]**

On July 21, 2020, Rabalais, proceeding *in pro se*, filed a motion captioned *Motion to Deny Plaintiff's Voluntary Dismissal Request* [Doc. No. 10] (the "Motion"). In the Motion, Rabalais asserts that the Dismissal Notice is invalid because Rabalais served his Answer upon Leon prior to the filing of the Dismissal Notice. Rabalais contends that the Adversary Proceeding should be decided on the merits.

Leon opposes the Motion. Leon asserts that Rabalais wants to proceed with the Adversary Proceeding so that he can attempt to relitigate the dischargeability of the Judgment. Leon states that there is no reason not to dismiss the Adversary Proceeding, since the Court has already ruled that the Judgment cannot be discharged through the instant petition.

In reply to Leon's opposition, Rabalais contends that it is too late for Leon to voluntarily dismiss the Adversary Proceeding, since Rabalais' Answer is on file. Rabalais reiterates his request that the Court adjudicate the Complaint on the merits.

## **II. Findings and Conclusions**

Under Civil Rule 41(a), the plaintiff is entitled to dismiss an action as of right without an order of the court "by filing a notice of dismissal before the opposing party



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serves either an answer or a motion for summary judgment ....” As set forth in Civil Rule 5(b), if a pleading is served by mail, “service is complete upon mailing ....” Therefore, dismissal as of right was not available to Leon, because although Leon had not received Rabalais’ Answer in the mail before he filed the Notice of Dismissal, Rabalais’ Answer had been served before the Notice of Dismissal was filed.

Civil Rule 41(a)(2) provides that if dismissal as of right is not available, “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” The purpose of Civil Rule 41(a)(2) is “to permit a plaintiff to dismiss an action ... so long as the defendant will not be prejudiced ... or unfairly affected by dismissal.” *Stevedoring Servs. of Am. v. Armilla Int’l B.V.*, 889 F.2d 919, 921 (9th Cir. 1989). “In determining whether to allow dismissal, the Court is to consider whether doing so will unfairly affect the other side. Thus, courts generally allow dismissal unless defendant will suffer ‘some plain legal prejudice.’ However, plain legal prejudice does not result merely because defendant will be inconvenienced by having to defend in another forum. Nor does it result when the dismissal may cause defendant to incur substantial expense in preparing for trial. The court may dismiss the claim even where plaintiff would gain a tactical advantage thereby.” *Burnette v. Godshall*, 828 F. Supp. 1439, 1443 (N.D. Cal. 1993), *aff’d sub nom. Burnette v. Lockheed Missiles & Space Co.*, 72 F.3d 766 (9th Cir. 1995) (internal citations omitted).

The Court finds that dismissal of the action under Civil Rule 41(a)(2) is appropriate. Dismissal will not prejudice Rabalais. To the contrary, dismissal will benefit Rabalais since he will not be required to undergo the time and expense of litigating the Adversary Proceeding.

The only plausible motive for Rabalais to oppose dismissal is a desire to relitigate the dischargeability of the Judgment. However, the Court has already found that the Judgment remains non-dischargeable, notwithstanding the filing of the instant petition, and that Rabalais is precluded from contending otherwise. *See* Bankr. Doc. Nos. 37 and 40. Rabalais’ apparent desire to continue to relitigate the dischargeability of the Judgment, in the face of the Court’s finding that he is precluded from doing so, does not warrant denying Leon’s request to dismiss this action.

Since the deadline to assert dischargeability actions has elapsed, the dismissal of the action will be with prejudice.

### **III. Conclusion**

Based upon the foregoing, the Motion is **DENIED**. Pursuant to Leon’s request,

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this Adversary Proceeding is dismissed, with prejudice, under Civil Rule 41(a)(2).  
The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The Answer was filed on July 10, 2020, but was not docketed until several days later because it was not filed electronically.

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

Christopher Paul Rabalais	Pro Se
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**Defendant(s):**

Christopher Paul Rabalais	Pro Se
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**Plaintiff(s):**

Seth Leon	Represented By Cheryl S Chang
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**Trustee(s):**

John P Pringle (TR)	Pro Se
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01051 California Nurses Association v. VERITY HEALTH SYSTEM OF

**#3.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01051. Complaint by California Nurses Association against VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, De Paul Ventures, LLC, Richard Adcock, Steven Sharrer. (d),(e)),(14 (Recovery of money/property - other)),(21 (Validity, priority or extent of lien or other interest in property)),(81 (Subordination of claim or interest)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Skogstad, Kyrsten)

FR. 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10/13/20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Defendant(s):**

VERITY HEALTH SYSTEM OF	Pro Se
ST. VINCENT MEDICAL	Pro Se
St. Vincent Dialysis Center, Inc.	Pro Se
ST. FRANCIS MEDICAL	Pro Se
Seton Medical Center, a California	Pro Se
Verity Holdings, LLC, a California	Pro Se
De Paul Ventures, LLC	Pro Se
Richard Adcock	Pro Se
Steven Sharrer	Pro Se
St. Francis Medical Center of	Pro Se
Does 1 through 500	Pro Se

**Plaintiff(s):**

California Nurses Association	Represented By
	Carol A Igoe
	Kyrsten Skogstad

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**2:19-18371 Heladio Ramos, Jr.**

**Chapter 7**

**#100.00** HearingRE: [19] Motion to Approve Compromise Under Rule 9019 with Debtor Regarding the Disposition of Estate's Interest in Certain Real Property (4361 Hammel Street, Los Angeles, CA 90022) (Dye, Carolyn)

Docket 19

**Tentative Ruling:**

8/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED, and the Settlement Agreement is APPROVED.

**Pleadings Filed and Reviewed**

1. Chapter 7 Trustee's Motion for Authority to Compromise Controversy with Debtor Regarding the Disposition of Estate's Interest in Certain Real Property (4361 Hammel Street, Los Angeles, CA 90022) [Doc. No. 19] (the "Motion")
2. Notice of Motion [Doc. No. 20]
3. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Heladio Ramos, Jr. (the "Debtor") commenced a voluntary chapter 7 petition on July 18, 2019 (the "Petition Date"). Sam L. Leslie (the "Trustee") accepted appointment as chapter 7 trustee at the outset of the case. Among the assets scheduled by the Debtor is a real property interest in the Debtor's residence located at 4361 Hammel Street, Los Angeles, CA 90022 (the "Property"). According to the Debtor, the Property has a fair market value of \$592,000 and is encumbered by a first-position deed of trust in the amount of \$402,594.01. The Debtor claims a \$100,000 exemption

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in the Property. Based on the advice of Trustee's real estate agent that the Property can be sold for \$600,000, the Trustee believes there will be nonexempt equity left over in the Property after payment of all encumbrances and sale costs.

**The Motion**

On July 23, 2020, the Trustee filed the Motion [Doc. No. 85]. In lieu of the Property's sale, the Trustee seeks approval of a settlement agreement (the "Settlement Agreement") with the Debtor for the payment of the estate's interest in the Property for \$46,800. *See* Motion, Ex. A. The Debtor is responsible for making monthly payments of \$1,300 through July 21, 2023. The Trustee argues that the Settlement Agreement is consistent with the factors enumerated in *Martin v. Kane (In re A & C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). Instead of incurring further expense to market the Property, the Settlement Agreement will enable the estate to receive a steady stream of cash over the next three years. The Trustee argues that the Settlement Agreement will minimize administrative expenses and legal fees, as well as any risks associated with the sale of the Property. The Settlement Agreement will generate enough proceeds to pay anticipated administrative fees and most, if not all, of unsecured claims totaling \$43,384.34. Finally, any risks in approving the Settlement Agreement are mitigated because the Trustee will receive a trust deed against the Property for the amount owed by the Debtor.

As of the preparation of this tentative ruling, no opposition is on file.

**II. Findings of Fact and Conclusions of Law**

Bankruptcy Rule 9019(a) permits the Court to approve a compromise or settlement. In the Ninth Circuit, courts consider the following factors in determining the fairness, reasonableness and adequacy of a proposed settlement agreement:

- (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;
- (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

*Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

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**Chapter 7**

"Each factor need not be treated in a vacuum; rather, the factors should be considered as a whole to determine whether the settlement compares favorably with the expected rewards of litigation." *In re Western Funding Inc.*, 550 B.R. 841, 851 (B.A.P. 9th Cir. 2016). Furthermore, "compromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (Bankr. D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983).

Here, the Court finds that the Settlement Agreement is adequate, fair and reasonable, and in the best interests of the estate in accordance with the *A & C Properties* factors. Accordingly, the Settlement Agreement offers creditors a certain result, which is an improvement given the many risks associated with the sale of the Property in a post-COVID-19 real estate market. Furthermore, the Settlement Agreement will generate a sizeable pool of funds for the estate over the next three years that will be sufficient to repay administrative claims and most, or all, of unsecured claims. Even if the Debtor fails to fulfill the terms of the Settlement Agreement, the Trustee will be able to act against the Property through the deed of trust. For this reason, the Settlement Agreement adequately considers any risks borne by creditors, while reducing unnecessary costs, delays, and uncertainties. In sum, the Court determines that the Settlement Agreement satisfies all the *A & C* factors, and therefore, the Motion is granted.

Moreover, the Court has not received any objection to the Motion. Accordingly, pursuant to LBR 9013-1(h), the Court presumes all interested parties consent to the approval of the Settlement Agreement.

### **III. Conclusion**

Based on the foregoing, the Motion is GRANTED, and the Settlement Agreement is APPROVED.

The Trustee is directed to lodge a conforming proposed order, incorporating this

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tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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

Heladio Ramos Jr.

Represented By  
LeRoy Roberson

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Carolyn A Dye



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**2:19-13059 Norberto Pimentel and Erica Pimentel**

**Chapter 7**

- #1.00 Show Cause Hearing**  
RE: [77] Requiring Norberto Pimentel And Erica Pimentel To Appear And Show Cause Why They Should Not Be Held In Civil Contempt For Knowingly Violating The Court's Order Requiring The Payment Of \$1000 In Sanctions To Counsel For The Chapter 7 Trustee

Docket 78

**Tentative Ruling:**

8/18/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, a sanction in the total amount of \$1,350 shall be paid to the Trustee from the sales proceeds of the Property that would have otherwise been earmarked for the Debtors' homestead exemption.

Further, at the hearing the court requests an update from the Trustee on marketing of the subject Property, the overall status of the case, and the timetable for selling the Property.

**Pleadings Filed and Reviewed:**

- 1) Motion and Notice of Motion for an Order to Show Cause Why the Debtors Should Not be Held in Contempt and Be Sanctioned for their Failure to Comply with the Court's Order of February 24, 2020 to Pay \$1,000.00 in Sanctions to the Law Offices of Nicol & Stevens by April 30, 2020 [Doc. No. 76]
- 2) Order Requiring Noberto Pimentel and Erica Pimental to Appear and Show Cause Why They Should Not Be Held in Civil Contempt for Knowingly Violating the Court's Order Requiring the Payment of \$1,000 in Sanctions to Counsel for the Chapter 7 Trustee [Doc. No. 77] (the "Second OSC")
  - a) Bankruptcy Noticing Center Certificate of Notice of Order to Show Cause [Doc. Nos. 81-82]

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**CONT... Norberto Pimentel and Erica Pimentel Chapter 7**

- b) Proof of Service of the Order to Show Cause [filed by the Chapter 7 Trustee] [Doc. No. 80]
- 3) Debtors' Opposition to Motion for an Order to Show Cause Why the Debtors Should Not be Held in Contempt and Be Sanctioned for their Failure to Comply with the Court's Order of February 24, 2020 to Pay \$1,000.00 in Sanctions to the Law Offices of Nicol & Stevens by April 30, 2020 [Doc. No. 83]
- 4) No reply is on file

### **I. Facts and Summary of Pleadings**

Noberto Pimentel and Erica Pimentel (collectively, the "Debtors") filed a joint voluntary Chapter 7 petition on March 20, 2019. The Debtors scheduled their interest in real property located at 11421 Angell Street, Norwalk, CA 90650 (the "Property"). On July 25, 2019, the Court denied the Debtors' motion to convert to Chapter 13 (the "Conversion Motion"). *See* Doc. No. 41. The Court found that the Debtors' bad faith failure to provide accurate and complete information in their schedules and in response to questioning under oath warranted denial of the Conversion Motion. *See* Final Ruling Denying Conversion Motion [Doc. No. 40].

On June 18, 2019, the Court authorized the Chapter 7 Trustee (the "Trustee") to employ Keller Williams Realty (the "Broker") to market the Property. *See* Doc. No. 35.

On September 27, 2019, upon motion of the Chapter 7 Trustee (the "Trustee"), the Court ordered the Debtors to cooperate with the Trustee's real estate broker with respect to the marketing of the Property. There was no appearance by the Debtors or their counsel at the September 25, 2019 hearing. There was no written opposition. The Court further ordered the Debtors to pay the Trustee's counsel \$500 in attorneys' fees as a sanction for failing to fulfill their statutory obligation to cooperate with the Trustee. *See* Doc. No. 59 (the "First Sanctions Order"). The sanction was to be paid by no later than November 1, 2019. *Id.*

The Debtors failed to pay the sanction by November 1, 2019, as ordered by the Court. On January 13, 2020, the Court issued an order requiring the Debtors to show cause why they should not be held in contempt for knowingly violating the First Sanctions Order. *See* Doc. No. 63 (the "First OSC"). The Debtors were also ordered to show cause why they should not be required to pay the Trustee additional sanctions to compensate him for the costs of enforcing the Sanctions Order. The Debtors did not respond to the First OSC and failed to appear at the hearing. On February 24, 2020, the Court ordered the Debtors to pay the Trustee's counsel \$1,000 (consisting of the

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\$500 payment ordered by the Sanctions Order plus an additional sanction of \$500 to compensate the Trustee for the costs of enforcing the First Sanctions Order). *See* Doc. No. 72 (the "Second Sanctions Order"). The sanction was to be paid by no later April 30, 2020. *Id.*

Debtors failed to pay the sanction. On July 14, 2020, the Court ordered the Debtors to show cause why they should not be held in contempt for knowingly violating the Second Sanctions Order. *See* Doc. No. 77 (the "Second OSC").

In opposition to the Second OSC, Debtors state that they cannot afford to pay the sanctions. Debtors suggest that the Court order that the sanctions be paid from the proceeds of the sale of the Property. The Trustee has not submitted a reply to the Debtors' opposition.

## **II. Findings and Conclusions**

The Bankruptcy Court has authority to impose compensatory civil contempt sanctions pursuant to § 105. *Renwick v. Bennett (In re Bennett)*, 298 F.3d 1059, 1069 (9th Cir. 2002). "The standard for finding a party in civil contempt is well settled: 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." *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178, 1191 (9th Cir. 2003). "The burden then shifts to the contemnors to demonstrate why they were unable to comply." *F.T.C. v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir. 1999). Inability to comply is a defense, but the burden is upon the Debtors to show "categorically and in detail" how compliance is "impossible." *Id.* at 1241.

There is no dispute that the Debtors have failed to comply with the Second Sanctions Order. However, the Court notes that the Debtors have offered to pay the sanctions from the proceeds of the sale of the Property. No party has timely objected to the Debtors' claim of a homestead exemption in the amount of \$100,000 in the Property. *See* Doc. No. 60.

The Court will order the sanctions to be paid from the portion of the Property's sale proceeds that would have otherwise been earmarked for the Debtors' homestead exemption **but only upon the express consent of the Debtors and their attorney in writing and on the record**. The sanctions shall be paid to the Trustee directly from escrow. The total sanction shall be \$1,350, consisting of the \$1,000 ordered by the Second Sanctions Order plus \$350 to compensate the Trustee for enforcing the Second Sanctions Order. **[Note 1]**

Within seven days of the hearing, the Trustee shall submit an order incorporating

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this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The Trustee requests a sanction of \$1,500 in addition to the \$1,000 sanction previously ordered. The sanction requested by the Trustee is excessive. The Court previously sanctioned the Debtors \$500 to compensate the Trustee for the costs of enforcing the First Sanctions Order. The Motion filed by the Trustee to enforce the Second Sanctions Order is similar to the enforcement motion previously filed by the Trustee. An additional sanction of \$350 will adequately compensate the Trustee for the costs of enforcing the Second Sanctions Order.

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

Norberto Pimentel

Represented By  
Marcus Gomez

**Joint Debtor(s):**

Erica Pimentel

Represented By  
Marcus Gomez

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Adam Stevens

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**2:18-13731 Samuel Antonio Acevedo and Lucy Acevedo**

**Chapter 11**

**#2.00** HearingRE: [150] Application for Compensation for Law Offices of Lionel E. Giron, Debtor's Attorney, Period: 6/13/2019 to 7/29/2020, Fee: \$16,935.00, Expenses: \$709.00.

Docket 150

**Tentative Ruling:**

8/18/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Court determines that Counsel is entitled to final fees and expenses of \$14,365.50 for the second application period, which takes into account a reduction of fees in the sum of \$3,278.50. Notwithstanding, approval of Counsel's compensation is conditioned on the submission of a declaration in compliance with LBR 2016-1(J) by no later than **August 26, 2020**. Amounts previously paid on an interim basis, if any, are now deemed final. Furthermore, the Cash Collateral Motion is GRANTED as discussed below.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion in Individual Chapter 11 Case for Order Authorizing Use of Cash Collateral [Doc. No. 152] (the "Cash Collateral Motion")
2. Application for Payment of Final Fees and/or Expenses (11 U.S.C. § 330) [Doc. No. 150] (the "Fee Application")
3. Notice of Fee Application [Doc. No. 151]
4. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Debtors-in-possession, Samuel Antonio Acevedo and Lucy Acevedo (together, the "Debtors"), filed this voluntary chapter 11 case on April 3, 2018 (the "Petition Date"). The Debtors' primary asset consists of a rental property located at 6220 Palladio Lane, Fontana, CA 92336 (the "Property"), which they rent out for an additional \$3,100 in

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monthly income. The Property is subject to a first-priority deed of trust in favor of Wells Fargo Bank (the "Bank") securing a claim in the amount of \$384,478.36. On August 7, 2020, the Court entered an *Order Confirming Debtors' Chapter 11 Third Amended Plan of Reorganization* [Doc. No. 155].

**Overview of Procedural History**

To provide context for the findings and conclusions reached herein, a summary of this case's procedural history is set forth below:

The Debtors obtained an order to employ the Law Offices of Lionel E. Giron ("Counsel") as general bankruptcy counsel on December 27, 2018 [Doc. No. 31]. Having reviewed the case docket and relevant pleadings, the Court, on its own motion, directed the Debtors to file a plan and disclosure statement by no later than May 31, 2019. The Debtors were advised that failure to abide by the Court's timeline could lead to the conversion or dismissal of their case. The Debtors filed plan confirmation documents by the May 31st deadline. On July 17, 2019, the Court denied the disclosure statement because it contained inadequate and inaccurate information:

1. The Debtors' Liquidation Analysis (Disclosure Statement, Part 4, page 5) does not contain adequate information because it appears the only asset the Debtors have included in their "Net liquidation value of Debtors' assets" is the anticipated cash on hand as of the Effective Date. While the Debtors did attach a copy of their Schedules A/B, they failed to include a comprehensive liquidation analysis for each asset. The Court finds this particularly troubling because there appears to be approximately \$52,521.64 in equity in the Rental Property and the Debtors have not included any analysis to support their conclusion that the Rental Property would have a \$0.00 liquidation value if the case were converted to a Chapter 7.
2. The Disclosure Statement does not contain any discussion of the events which led to the bankruptcy filing....
3. The Debtors' proposal to pay Honda the full amount of its Proof of Claim despite the Court's Vehicle Valuation Order bifurcating \$3,731.60 of the claim into an unsecured claim is unsupported by any meaningful explanation.

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Ruling on Denial of Disclosure Statement [Doc. No. 76].

**Chapter 11**

At the Court's direction, the Debtors filed the first amended disclosure statement on July 26, 2019. As before, the Court denied the first amended disclosure statement based on the failure to submit accurate and appropriate disclosures:

1. The Amended Disclosure Statement is not supported by financial projections....
2. ... The Debtors also disclose that their monthly rental income from the Rental Property increased in July 2019. However, it appears that the Debtors have not included the increased rental income figure in their Exhibit A1 calculations.
3. ... Part 1.D states that Class 6(b) creditors will be paid 4% of their allowed claims without interest in equal monthly installments over 5 years. However, the Debtors also discuss payments to this class in terms of quarterly payments. See Acevedo Declaration, ¶ 33. The Court also notes that Paragraph 18.c. of Exhibit A1 states that payments to unsecured creditors will be \$39.27. It appears the correct figure is the \$1,191.04 figure...

Ruling on Denial of First Amended Disclosure Statement [Doc. No. 89]. A second amended disclosure statement was filed on September 20, 2019 [Doc. No. 96]. Finally, on October 16, 2020, the Court approved the Debtor's disclosure statement, subject to additional revisions requiring the submission of a third amended disclosure statement [Doc. No. 100]. Remarkably, Counsel neglected to correct a simple issue expressly discussed by the Court on a prior ruling: "Debtors' proposed distribution to the class of unsecured creditors remains unclear... Debtors are still unable to consistently represent exactly how much creditors will be paid." Ruling Approving Second Amended Disclosure Statement at 5. Moreover, the second amended disclosure statement remained plagued by errors and inaccuracies:

Certain figures provided in the liquidation analysis of Part 4 are inaccurate. Debtors claim that the estimated percentage of unsecured claims that would be paid out in liquidation is 0%. This statement is plainly wrong.

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*See id.* at 6. The Court subsequently entered an order establishing deadlines for the filing and transmission of plan confirmation materials. The Court held a hearing on the confirmation of the Debtors' amended plan of reorganization on January 16, 2020. In addition to the Bank's unresolved objection against confirmation, the Court concluded that it was not in a position to confirm the plan because no creditor had casted a vote in its favor:

class not  Plan  140,  to shall be Interests in such objection, non-voting creditors	Classes 5(a), 5(b), and 6(b) are all impaired, entitled to vote, but no casted a ballot (the "Non-Voting Classes"). Therefore, the Plan does satisfy requirement under §1129(a)(10).... Plan proponents have dealt with the problem of a non-voting class by including prominent language in the Plan, Disclosure Statement and Ballot providing that creditors who did not vote would be deemed to accept the plan. <i>See, e.g.</i> , In re Adelphia Communications, 368 B.R. 260-62 (Bankr. S.D.N.Y. 2007) ("Section 7.3 of the Plan adopts a presumption that '[i]f no holders of Claims or Equity Interests eligible to vote in a particular Class vote to accept or reject the Plan, the Plan shall be deemed accepted by the holders of such Claims or Equity Interests in such Class.'... I overruled the ACC Bondholder Group's objection, and uphold the Plan presumption with respect to the non-voting creditors in these classes.").
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Unfortunately, the Debtors did not include any such language in the Plan, Disclosure Statement or Ballot. In fact, the Debtors' Ballot expressly stated that failure to return a timely ballot would result in the vote not being counted as "either an acceptance or rejection of the Plan." *See* Third Amended Disclosure Statement, Ex. D.

*See* Ruling Denying Confirmation of First Amended Plan [Doc. No. 110] at 7. In response, the Court imposed new deadlines to afford Debtors more time to cure plan issues and resolve the Bank's objection:

Therefore, the Court finds it appropriate to reopen voting and directs the Debtors to serve an amended plan and disclosure statement, and a supplemental notice to all creditors and file a proof of service evidencing the same by no later than January 29, 2020, that: (i) notes that such classes



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previously received copies of the Debtors' solicitation package and have failed to timely return a ballot; (ii) unambiguously states that the deadline to submit a ballot has been extended to February 21, 2020, (iii) notifies such classes that the failure to timely return a ballot by the February 21st deadline will be deemed acceptance of the amended Plan....

*See id.* at 7-8. The Debtors were further directed to file amended plan confirmation materials. However, the Debtors, acting through Counsel, failed to comply with any of the new deadlines. As of April 3, 2020, no additional filings had been made; as a result, the Court vacated the second confirmation hearing and entered an order to show cause regarding conversion or dismissal [Doc. No. 113] (the "OSC"). In response to the OSC, Counsel assumed responsibility for the mistake: "for an unexplained reason the set deadlines by this Court were not adequately added to our office calendar...our office takes full responsibility for not meeting those deadlines." Declaration of Lionel Giron in Response to OSC [Doc. No. 120], ¶¶ 6-7. Based on Counsel's declaration, the Court set another round of deadlines, and the Debtors' third amended plan (the "Plan") was confirmed on August 7, 2020.

**Summary of the Fee Application**

On July 29, 2020, Counsel filed its second and final application for compensation [Doc. No. 150 (the "Fee Application")], seeking the allowance of fees in the amount of \$16,935 and expenses in the amount of \$709 for services rendered from June 13, 2019 through July 29, 2020. The Court previously awarded Counsel compensation of \$14,029 on July 19, 2019 [Doc. No. 79]. Counsel seeks compensation for the following legal services in the specified amounts set forth below:

**Case Administration:** Hours billed: 28.01; Total Requested:  
\$5,915

**Motions:** Hours billed: 3.5; Total Requested:  
\$1,225

**Employment of Professionals  
& Application for Compensation:** Hours billed: 4; Total Requested: \$1,400

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**Plan of Reorganization**

**and Disclosure Statement:**

Hours billed: 27.4; Total Requested:

\$8,395

**Summary of the Cash Collateral Motion**

On July 29, 2020, the Debtors, through Counsel, filed the *Motion in Individual Chapter 11 Case for Order Authorizing Use of Cash Collateral* [Doc. No. 152] (the "Cash Collateral Motion"). The Debtors state that they are holding approximately \$9,245.99 in cash on hand generated from the Property. Cash Collateral Motion at 3. The Debtors presently seek an order authorizing the use of cash collateral to make a one-time payment of \$7,644 to their Counsel for the payment of final fees and expenses contemplated in the concurrently filed Fee Application.

As of the date of this tentative ruling, no opposition is on file as to either the Fee Application or the Cash Collateral Motion.

**II. Findings of Fact and Conclusions of Law**

As a preliminary matter, the Court notes that Counsel neglected to include a declaration from the Debtors in support of its requested fees. Local Bankruptcy Rule ("LBR") 2016-1 states the requirements for compensation for professional persons. Under LBR 2016-1(J), the application for compensation must include "A separately filed declaration from the client indicating that the client has reviewed the fee application and has no objection to it . . . ." If the client declines to provide their declaration, the applicant "must file a declaration describing the steps that were taken to obtain the client's declaration and the client's response thereto." *See id.* Accordingly, subject to the conclusions set forth below, approval of Counsel's compensation is conditioned on the submission of a declaration in compliance with LBR 2016-1(J) by no later than **August 26, 2020**.

**A. The Fee Application**

Section 330(a)(1) allows the Court to award "reasonable compensation for actual, necessary services rendered" by a professional. In determining the amount of compensation to award, the Court considers the nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;

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(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;

(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

§ 330 (a)(3).

As the recitation of facts set forth above illustrates, Counsel has failed to competently represent the Debtors. This case was filed on April 3, 2018 and the Court ordered the submission of the disclosure statement and plan materials by May 31, 2019, but it took more than fourteen months for Counsel to secure a plan confirmation order. Throughout this fourteen-month interval, the Debtors' case did not meaningfully progress on account of Counsel's critical errors and inaccurate pleadings. Counsel's negligence required Debtors to incur thousands of dollars of additional administrative fees and delayed the conclusion of the case by at least six months.

*Disclosure Statement*

Counsel requests \$4,920 in legal fees for the preparation of the first, second, and third versions of the disclosure statement, but these services were of limited benefit to the estate. *See* Fee Application, Ex. D at 1-2. Many of the services associated with the preparation and filing of the disclosure statement were not competently performed as Debtors were required to submit four amended disclosure statements. As discussed in the Court's final rulings [Doc. No. 76, 89, 100], the disclosure statement forms were riddled with significant deficiencies and inconsistencies preventing creditors from effectively understanding important plan provisions. Among other problems, each version of the disclosure statement failed to provide creditors with adequate information concerning the estate's assets, the estimated return to creditors under a

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chapter 7 liquidation, of financial information and financial projections. For example, even in their final versions, the plan materials failed to consistently state whether priority tax claims would be paid on either a *quarterly* or *monthly* basis. *Compare* Doc. No. 121 *with* Doc. No. 122. [Note 1]. Many of the services billed by Counsel in this category were necessary only because Counsel failed to adequately prepare the disclosure statement forms, and therefore was required to file additional drafts of the disclosure statement. Having reviewed the Fee Application, the Court finds that Counsel is entitled to only \$3,444 in fees associated with the disclosure statement, subject to a 30% reduction of \$1,476.

*The Plan*

Counsel requests \$2,905 in fees incurred in connection with the belated third amended plan. *See* Fee Application, Ex. D at 4. As explained in Section I, the filing and approval of the Plan was unjustifiably delayed by months due to Counsel's clerical mistake. Although the occurrence of a ministerial error is understandable, Counsel's failure to take any appropriate action for nearly four months is troubling. Most egregiously, Counsel neglected to act until prompted by the Court through the OSC. [Note 2]. This level of negligence by Counsel demonstrates its inability to competently supervise the Debtors' case through plan confirmation, arguably the most important stage in any chapter 11 proceeding. In view of oversights and errors made by Counsel, the Court finds that Counsel is entitled to receive only \$1,452.50 in connection with work performed regarding the third amended plan, which represents a 50% reduction.

*The OSC*

Finally, Counsel seeks \$350 for preparing and filing the Debtors' reply to the OSC. Counsel is not entitled to any compensation billed in relation to the OSC, which was caused by its clerical mistake and failure to appropriately supervise Debtors' case for approximately four months.

Based upon the foregoing, the Court finds that Counsel is entitled to fees and expenses of \$14,365.50, which accounts for a reduction of fees in the sum of \$3,278.50.

**B. The Cash Collateral Motion**

Section 363(c)(2) requires court authorization for use of cash collateral unless "each entity that has an interest in such cash collateral consents." In the Ninth Circuit,

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satisfaction of § 363(c)(2)(A) requires the "affirmative express consent" of the secured creditor; "implied consent," resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368-69 (9th Cir. 1987). Absent affirmative express consent, the Debtor "may not use" cash collateral absent the Court's determination that the use is "in accordance with the provisions" of § 363 – that is, that the secured creditor's interest in the cash collateral is adequately protected. 11 U.S.C. §§ 363(c)(2)(B), 363(e).

A secured creditor's interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 382 (1988). Section 361 sets forth three non-exclusive examples of what may constitute adequate protection: (1) periodic cash payments equivalent to decrease in value; (2) an additional or replacement lien on other property; or (3) other relief that provides the indubitable equivalent. *See In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). Professional fees may be satisfied from a debtor-in-possession's cash collateral. *See In re Bluejay Properties, LLC*, 512 B.R. 390 (B.A.P. 10th Cir. 2014) (affirming court's order authorizing debtor's use of oversecured creditor's cash collateral to pay estate professionals).

Here, the Court finds that the Bank is over-secured and adequately protected by approximately a 4.3% equity cushion (after deducting costs of sale). The Court further finds that the Bank is adequately protected because there is no evidence in the record to suggest that the Property is declining in value or that the Debtors are not current on their post-petition monthly mortgage obligations to the Bank. Moreover, the rental income generated from the Property each month surpasses the monthly sum owed to the Bank.

On a separate note, the Cash Collateral Motion asserts that Counsel will be paid a "one-time" fee of \$7,644. The Court is unclear if this "one-time" payment to Counsel constitutes a voluntary reduction of Counsel's fees and expenses. Counsel does not affirmatively state on the Fee Application that it has elected to voluntarily reduce its fees from \$16,935 to \$7,644. It is equally unclear whether Counsel has previously received any cash advances from the Debtors for services billed during this

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application period. The Cash Collateral Motion is granted, insofar that Counsel is not entitled to receive more than its *allowed* fees and expenses for the second and final application period.

Finally, the Court deems the Bank's failure to file a response or opposition to the Cash Collateral Motion as its consent to the granting of the motion pursuant to Local Bankruptcy Rule 9013-1(h).

### **III. Conclusion**

For the reasons set forth above, the Court finds that Counsel is entitled to final fees and expenses of \$14,365.50, which accounts for a reduction of fees in the sum of \$3,278.50. Notwithstanding, approval of Counsel's compensation is conditioned on the submission of a declaration in compliance with LBR 2016-1(J) by no later than **August 26, 2020**. Amounts previously paid on an interim basis, if any, are now deemed final. Furthermore, the Cash Collateral Motion is GRANTED as stated above.

The Debtor is directed to lodge a conforming proposed order as to both the Fee Application and the Cash Collateral Motion, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** As set forth in the *Final Ruling Confirming Debtors' Third Amended Plan of Reorganization*, in order to give finality to the Debtors' case, the Court found that any conflict among the plan materials would be governed pursuant to the Plan's provisions. See Doc. No. 149-1.

**Note 2:** Accordingly, the Court disapproved the initial version of the Plan on January 16, 2020 and no action was taken by Counsel until the filing of the response to the OSC on April 21, 2020.

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**Chapter 11**

**Party Information**

**Debtor(s):**

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

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**Chapter 11**

**#3.00** HearingRE: [152] Motion to Use Cash Collateral

Docket 152

**Tentative Ruling:**

8/18/2020

See Cal. No. 2, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez



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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00** Hearing re [5098] Objection to Claim by Claimant Raquel Joseph, Claim No. 6194. in the amount of \$ 57,364,623

Docket 0

**Tentative Ruling:**

8/18/2020

Debtors initially noticed the hearing on this Claim Objection for Friday, August 14, a date which was not available for self-calendaring. The Clerk of the Court instructed the Debtors to renote the Claim Objection for Wednesday, August 19, 2020, at 10:00 a.m. *See* Doc. Nos. 5104–5105. There is no indication on the docket that the Claim Objection was renoted. Because the claimant was not provided proper notice, the Debtors shall renote the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, August 19, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** Hearing re [5099] Objection to Claim by Claimant Doris Thompson, Claim No. 8085. in the amount of \$ 50,000,000

Docket 0

**Tentative Ruling:**

8/18/2020

Debtors initially noticed the hearing on this Claim Objection for Friday, August 14, a date which was not available for self-calendaring. The Clerk of the Court instructed the Debtors to renote the Claim Objection for Wednesday, August 19, 2020, at 10:00 a.m. *See* Doc. Nos. 5104–5105. There is no indication on the docket that the Claim Objection was renoted. Because the claimant was not provided proper notice, the Debtors shall renote the hearing.

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**2:20-15501 Chineseinvestors.com, Inc.**

**Chapter 11**

**#6.00** HearingRE: [111] Application to Employ Weintraub & Selth, APC as General Counsel Application by the Official Committee of Creditors Holding Unsecured Claims to Employ Weintraub & Selth, APC as General Counsel, Declaration of Daniel J. Weintraub in Support Thereof

Docket 111

**Tentative Ruling:**

8/18/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Court is prepared to find that the Payment Procedures are not warranted at this time. Compensation of fees and expenses accrued by WS and Force 10 will be governed pursuant to §§ 330 and 331. The remainder of the Employment Applications are granted according to the terms and conditions set forth therein.

**Pleadings Filed and Reviewed:**

- 1) Application by the Official Committee of Creditors Holding Unsecured to Employ Weintraub & Selth, APC as General Counsel [Doc. No. 111] (the "WS Application")
- 2) Notice of WS Application [Doc. No. 112]
- 3) Notice of Application and Application by the Official Committee of Creditors Holding Unsecured Claims to Employ Force 10 LLC as Financial Advisor [Doc. No. 114] (the "Force 10 Application") (together with the WS Application, the "Employment Applications")
- 4) United States Trustee's Objection to Application by the Official Committee of

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**Chapter 11**

Creditors Holding Unsecured Claims to Employ Weintraub & Selth, APC as General Counsel [Doc. No. 125] (the "WS Application Objection")

- 5) United States Trustee's Objection to the Application by the Official Committee of Creditors Holding Unsecured Claims to Employ Force 10 LLC as Financial Advisor [Doc. No. 126] (the "Force 10 Application Objection") (together with the WS Application Objection, the "UST's Objections").
- 6) Debtor's Partial Opposition to the Application by the Official Committee of Creditors Holding Unsecured Claims to Employ Weintraub & Selth, APC as General Counsel And Force 10 LLC as Financial Advisor [Doc. No. 128] (the "Debtor's Objection")
- 7) The Official Committee of Creditors Holding Unsecured Claims' Omnibus Reply [Doc. No. 137] (the "Reply")

### **I. Facts and Summary of Pleadings**

ChineseInvestors.com, Inc. (the "Debtor") filed a voluntary chapter 11 petition on June 19, 2020 (the "Petition Date"). The Debtor is a financial information web portal that offers news and information regarding financial markets in Chinese. The issue before the Court pertains to a monthly compensation structure requested by Weintraub & Selth ("WS"), the proposed bankruptcy counsel for the Official Committee of Creditors (the "Committee"), and Force 10, LLC ("Force 10"), proposed financial advisor for the Committee. The contemplated payment procedure is opposed by the Debtor and the United States Trustee (the "UST").

Pursuant to an order entered on July 7, 2020 [Doc. No. 35] (the "July 7 Order"), the Court approved the Debtor's first-day request to retain and pay professionals in the ordinary course of Debtor's business operations (the "ordinary course professionals" or "OCPs"). The July 7 Order allowed the compensation of OCPs on a month-to-month basis, subject to a compensation cap of \$10,800 per month (the "OCP Cap"):

The Court finds that the Debtors' proposed retention procedures are consistent with § 327(b) and approves the procedures. The Court notes that procedures similar to those proposed here have been approved by a number of courts.

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The OCPs that the Debtor seeks to employ fall within the ambit of § 327(b). The OCPs have been regularly employed by the Debtor prior to the petition. The services they perform—accounting, public relations, investor communications, advertising, and information technology services—are necessary regardless of whether a bankruptcy petition was filed. The fact that professionals are not paid a fixed salary does not disqualify the Debtor from retaining their services under § 327(b). The professionals were employed by the Debtor prepetition and received regular payments, which necessarily varied depending upon the amounts of services that the professionals provided.

Under the Debtor’s procedures, the rights of all parties to object are preserved. The Court finds that the procedures are an effective means of reducing the administrative costs of the case. The professionals the Debtor seeks to employ do not regularly practice before the bankruptcy court and are not familiar with the Bankruptcy Code’s required employment and compensation procedures. Were the professionals required to file fee applications, the Debtor would be required to spend significant time helping them to comply with the procedures—driving up administrative costs.

Ruling Granting Emergency Motion Authorizing Employment of OCPs [Doc. No. 35] at 24-25.

**The Employment Applications**

The Committee concurrently submitted applications to employ WS as bankruptcy counsel and Force 10 as financial advisor on July 29, 2020 [Doc. Nos. 111, 114] (the “Employment Applications”). One of the terms set forth in the Employment Applications seeks authorization to compensate both professionals under a monthly payment procedure in the same manner of *In re Knudsen*, 84 B.R. 668 (B.A.P. 9th Cir. 1988). The contemplated compensation arrangement calls for the payment of 100% of the professionals’ fees and 80% of their fees, on a monthly basis, not to exceed \$10,800 each month (the “Payment Procedures”). In support of the requested compensation procedure, the Employment Applications assert the following principal

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arguments and representations:

The Payment Procedures are warranted in consideration of the *Knudsen* factors: (1) the case is unusually large; (2) an extending waiting period for payment would place an undue burden on the professionals; (3) the professionals are capable of responding to any reassessment of fees; and (4) the payment procedure itself is subject to a noticed hearing. *In re Knudsen*, 84 B.R. at 672-73. First, with respect to the size of the bankruptcy case, the Payment Procedures should be approved, notwithstanding that the this case is smaller than the *Knudsen* case. The approval of *Knudsen*-type fee procedures, even in smaller reorganization proceedings, is supported by the discussions in *In re Lotus Props. LP*, and *In re Jefferson Business Center Associates*. *See Lotus Props.*, 200 B.R. 388, 397-98 (Bankr. C.D. Cal. 1996) (“the ‘message’ behind *Knudsen*...[is] satisfied by allowing counsel to obtain monthly post-petition payments, notwithstanding that...[this] Chapter 11 case is smaller than *Knudsen*.”); *Jefferson Bus. Ctr.*, 135 B.R. 676, 680 (Bankr. D. Colo. 1992) (“A small firm should not be treated any differently, as long as it meets all of the criteria referenced above.”). Second, the Payment Procedures are necessary because waiting for compensation in 120-day periods “may place undue hardship on [WS].” Due to WS’s size and available resources, disapproval of the Payment Procedure would essentially require WS to “finance” the Debtor’s reorganization, subjecting the firm to financial hardship. The Payment Procedures would ease such hardship. Similarly, Force 10 reiterates that, absent approval of the Payment Procedures, it may experience undue hardship, even though Force 10 does not anticipate “devot[ing] significant time in this case.” *See* Declaration of Adam Meislik (the “Meislik Declaration”), ¶ 16. Third, the declaration of Daniel J. Weintraub (the “Weintraub Declaration”) avers that WS and its professionals have the necessary time, experience, and resources to readily respond to any reassessment of fees payable to WS. *See* Weintraub Decl., ¶ 18. WS understands that its fees and expenses are subject to approval by this Court under §§ 330 and 331. Last, notice of the Payment Procedures has been served upon the Debtor, its counsel, secured creditors, the Debtor’s twenty largest unsecured creditors, parties who requested special notice, and the UST. Additionally, notice of the professionals’ requested compensation will be served upon the above-referenced parties each month. *See* Weintraub Decl., ¶ 15.

Furthermore, the July 7 Order authorizes the compensation of the Debtor’s OCPs on a monthly basis, in an amount not to exceed \$10,800 each month. Both WS and

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Force 10 are entitled to receive the same treatment afforded to the OCPs. Accordingly, the Code prohibits debtors from treating administrative claimants differently. *In re Lazar*, 83 F.3d 306, 308-09 (9th Cir. 1996) (“Under the Bankruptcy Code, administrative expense creditors must be treated equally and the court should not set up its own order of priorities.”).

The Payment Procedures are warranted under the circumstances and resemble the compensation arrangement in *Knudsen*. This arrangement does not impair the ability of interested parties to challenge the professionals’ fees, and any requested compensation will not be automatically approved, but remain subject to the Court’s scrutiny in accordance with the Code. Moreover, both WS and Force 10 are capable of repaying Debtor any fees disallowed by the Court.

**The Objections**

*The UST’s Objections*

On August 4, 2020, the UST lodged separate objections against the Payment Procedures proposed in both Employment Applications [Doc. Nos. 125, 126] (the “UST’s Objections”). The UST contends that the Employment Applications have failed to establish the factual support necessary to justify a departure from the traditional 120-day interim compensation process as set forth in *Knudsen*. The UST asserts that *Knudsen*-type procedures are meant to be applied only in “rare circumstances,” such as unusually large or complex cases. For example, in *In re Verity Health Systems, Inc., et. al.*, Case No. 2:18-bk-20151-ER, this Court approved *Knudsen*-style procedures, where the debtors’ counsel and the unsecured creditor committee’s counsel billed more than \$1,000,000 each month. The UST avers that the Committee has not shown that this case is either “unusually large,” or that it is “rare or uncommon” for counsel in chapter 11 proceedings to bill more than \$10,800 each month. WS Application Objection at 3-4. The Employment Applications proffer nothing more than conclusory statements in support of the claim that WS or Force 10 “may” suffer undue hardship if the Payment Process is denied. Additionally, the argument that the UST’s compensation guidelines (the “Compensation Guide”) promote the payment of professional fees and expenses on a monthly basis is misguided. The UST advises that the Compensation Guide offers procedures on the drawdown of retainers paid to counsel, but it says nothing about professional payment schemes in the manner of *Knudsen*. Similarly, the Employment Applications’ reliance on *Jefferson Business* is misplaced, given that the decision discussed the drawdown

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payments on a post-petition retainer. Here, the Committee does not assert that the professionals were advanced a retainer.

The UST also challenges the notion that WS and Force 10 are entitled to the payment structure set up for OCPs, given that the Committee's professionals do not serve the same purpose as the OCPs. Finally, the UST argues that the Payment Procedures would generate unnecessary administrative expenses as other estate professionals would be inclined to request such treatment and because preparing fee statements would cost applicants \$1,000 or more each month. Therefore, the Employment Applications do not provide enough evidence warranting adoption of the Payment Procedures.

*The Debtor's Objection*

On August 4, 2020, the Debtor independently lodged a separate objection against the Payment Procedures [Doc. No. 128] (the "Debtor's Objection"). The Debtor reiterates many of the arguments advanced by the Trustee, mainly that the Employment Applications do not adequately justify a *Knudsen*-type compensation procedure. Moreover, the Debtor argues that it would be unfair to permit the Committee's professionals to be paid on a monthly basis, where the Debtor's bankruptcy counsel, SEC compliance counsel, and accountant have all agreed to receive compensation in conformity with §§ 330 and 331. The OCPs are different from estate professionals, the Debtor explains, as the OCPs are all pre-petition service providers, and their services, expertise, and knowledge are necessary to maintain Debtor's ongoing business operations. Accordingly, the OCPs do not offer any bankruptcy-related services, but their skills are vital the best interests of creditors and the estate. If "replacement professionals" must be hired and trained, then, the Debtor cautions, the estate will need to incur unnecessary administrative expenses.

**The Reply**

Below is a summary of the main points, arguments, and representations set forth in the Committee's Reply [Doc. No. 137] filed on August 12, 2020:

The Committee is entitled to *Knudsen*-type payments because other estate professionals—such as the Debtor's counsel and accounting firm, have received sizeable retainers at the outset of the case. The disparity in the compensation structure among estate professionals means that the Committee's professionals will be required



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to finance both their own fees and their Debtor's reorganization. Due to the scope of the Debtor's case—and its status as a publicly-traded entity—WS and Force 10 will need to expend substantial time and resources to competently represent the Committee. The Court should take note of the fact that the Hinds Law Group, Debtor's counsel, was given a \$70,000 pre-petition retainer, \$37,429.80 of which remains in counsel's client trust account. SLBiggs, the Debtor's accountant, similarly received a substantial \$25,000 post-petition retainer. Given that the Committee was convened after first day motions were considered, unsecured creditors were incapable of timely voicing an opposition against the employment of the OCPs or the payment of hefty retainers to Debtor's professionals.

Further, the lack of transparency on Debtor's finances casts doubt on its future ability to satisfy administrative claims or fund a feasible chapter 11 plan. There is no guarantee that the Debtor will be capable of paying WS and Force 10 pending approval of interim fee applications, on the 120-day mark. The decision in *Lazar* stands for the proposition that "administrative creditors must be treated equally, and the court should not set up its own order of priorities." To the extent that Debtor's professionals received a substantial retainer, the administrative claims of WS and Force 10—co-equal in priority to other professional claims—are being treated unequally. The Committee's professionals should be granted *Knudsen* payments, or in the alternative, the Debtor must be compelled to provide WS and Force 10 with "adequate retainers."

## **II. Findings and Conclusions**

Section 330(a)(1) allows the Court to award "reasonable compensation for actual, necessary services rendered" by a professional. In determining the amount of compensation to award, the Court considers the nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem,

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issue, or task addressed;

(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field;

and

(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

§ 330 (a)(3). The court may award professionals reasonable compensation for actual, necessary services and reimbursement for actual, necessary expenses. § 330. In order to receive payment, a professional may apply for interim compensation not more than once every 120 days, or more often if the court permits. § 331.

However, there are certain "rare" circumstances where the delay in the distribution of a retainer could cause substantial cash flow problems for attorneys. In response, the Ninth Circuit has recognized an exception to the customary compensation procedure in unusually large cases where an exceptionally large amount of fees accrues each month, and where waiting would result in an undue hardship on the professionals. *United States Trustee v. Knudsen Corp. (In re Knudsen Corp.)*, 84 B.R. 668, 672 (B.A.P. 9th Cir. 1988). In *In re Knudsen*, the bankruptcy appellate panel reasoned that §§ 330 and 331 do not "absolutely prohibit" the transfer of funds to a professional before the court approves any interim compensation. Professionals seeking alternative payment procedures have the burden to show that such procedures are justified. *In re Dividend Develop. Corp.*, 145 B.R. 651, 656 (Bankr. C.D. Cal. 1992).

*In re Knudsen* provided a framework for determining whether a particular case warrants an advance payment scheme:

1. The case is an unusually large one in which an exceptionally large amount of fees accrues each month ("Factor 1");
2. The court is convinced that waiting an extended period for payment would place an undue hardship on the professional(s) ("Factor 2");
3. The court is satisfied that the professional(s) can respond to any reassessment ("Factor 3"); and
4. The retainer procedure is, itself, the subject of a noticed hearing prior to payment thereunder ("Factor 4").

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Bankruptcy courts contemplating *Knudsen* payments have also considered a number of additional factors including:

- The payment arrangement's economic impact on the debtor's ongoing business operation;
- The ability of the debtor to reorganize;
- The reputation of the professional in question;
- The effect of the proposed procedure on the ability of the court to adequately review professional fee applications.

*See In re Mariner Post-Acute Network, Inc.*, 257 B.R. 723, 731 (Bankr. D. Del. 2000); *see also In re Jefferson Bus. Ctr. Assoc.*, 135 B.R. at 679.

Here, the UST argues that the Committee has not demonstrated that alternative compensation procedures are warranted in this case. The Committee asserts that its professionals are readily capable of satisfying Factors 3 and 4, and the objections do not focus on these *Knudsen* factors. Therefore, the remaining questions are (1) whether the case is sufficiently large and/or complex and (2) whether WS and Force 10 will suffer undue hardship without periodic payments.

With respect to Factor 1, the Court determines that the Employment Applications have failed to establish that the size of this case warrants the Payment Procedures. The Committee posits that although this case is not as extensive as the *Knudsen* case, the size of the case should not preclude approval of the Payment Procedures. The Court is unpersuaded by this argument at this early stage of the proceedings. *Knudsen*-style payments are routinely approved in large or complex proceedings because of the administrative difficulties encountered in such cases. *See In Mariner Post-Acute Network*, 257 B.R. at 731. In larger cases, which tend to generate a massive amount of legal fees, the 120-day waiting period often places a substantial financial burden on estate professionals. *See id.*; *see also Knudsen*, 84 B.R. 668 at 672-73.

The Employment Applications furnish no evidence that the professional fees expected to accrue every 120 days will create burdensome administrative challenges for the Court or estate professionals. Although this bankruptcy case has a diverse creditor body, at this time, there is only one debtor entity here with total known assets

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barely surpassing \$1 million based on a recent operating report. *See* Monthly Operating Report No. 1. [Doc. No. 97] at 61. Another important consideration is that the professionals' fees will be capped at \$10,800 each month, a far cry from the amount of fees generated in more expansive cases where *Knudsen* procedures have been adopted. *See, e.g., In re Mariner Post-Acute Network*, 257 B.R. at 731 (Bankr. D. Del. 2000) (payment of professional fees on a quarterly basis approved in a case involving 180 jointly-administered debtors, with revenues in excess of \$2.8 billion, and the accumulation of \$7 million in fees over the first eight months of the bankruptcy). Relatedly, the Court is aware that there are outstanding questions about the Debtor's finances, and that the imminent appointment of an examiner could very well enlarge the scope of this case. As explained below, this fact militates in favor of denying the Payment Procedures for the time being.

With respect to Factor 2, the Court finds that the Employment Applications have not established that the professionals will suffer undue hardship if required to abide by the traditional interim fee procedure. The Payment Procedures call for the professionals to receive compensation not exceeding 80% of \$10,800, or \$8,640, each month. Both professionals generally declare that hardship will result if such procedures are not adopted. However, it is not unusual for professionals to receive compensation of a similar dollar amount under traditional fee procedures. Moreover, Force 10 does not anticipate that "it will be required to devote significant time in this case." *See* Force 10 Application at 10. Apart from the general claim of hardship, the Employment Applications do not set forth specific reasons indicating that this case will require a departure from the traditional compensation scheme under §§ 330 and 331. Accordingly, the Employment Applications have not established undue hardship. It is entirely conceivable, however, that the financial burdens occasioned by this case on WS and Force 10, if any, will be more visible in the weeks or months to come.

The Court further considers that this reorganization is still in its early stages, and whether the Debtor can afford to pay administrative claims, or present a feasible plan, is still a mystery to the Court. The Committee concedes this precise point: "*Albeit early in the Debtor's bankruptcy case...there are concerns about the ability of the Debtor to fund a plan of reorganization, including payment of administrative claims, in the future.*" *See* Reply at 5 (emphasis added). Having reviewed the record before it, the Court cannot conclude that the Debtor will be unable to pay the Committee's professionals at the 120-day mark. The fact that the UST, the Debtor, and the

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Committee have stipulated for the appointment of an examiner under § 1104(c)(1) and (c)(2) further supports the Court's conclusion. *See* Doc. No. 138. With time, the Court will be in a better position to make a more informed prediction on Debtor's financial stability.

Furthermore, the Court is especially sensitive of the added administrative costs imposed by the Payment Procedures. The single cost of preparing monthly fee reports comprises a significant portion of the maximum monthly fee cap. Conservatively assuming that the Committee incurs approximately \$1,000 to prepare, file, and serve a fee statement each month, per professional, then the expected clerical costs alone will total at least \$8,000, every 120 days. Any other professional that requests *Knudsen* payments will incur an additional \$4,000 in preparation fees during the same period. At this stage, it is conceivable that the estate will be required to employ additional professionals: special litigation counsel, consumer privacy ombudsman, etc. By virtue of the foregoing, approving the Payment Procedures right now is premature at best. *See In re Mariner Post-Acute Network*, 257 B.R. at 731 (in determining to approve *Knudsen* payments, courts may also consider "the payment arrangement's economic impact on the debtor's ongoing business operation."; *see also Knudsen*, 84 B.R. 668 at 672 (in approving an alternative compensation scheme, the *Knudsen* court reasoned that fee procedures must not result in "a waste of estate assets").

The Committee advances that its professionals are treated disparately because OCPs are compensated on a monthly basis. Although administrative expense creditors must be treated equally, the Court gives little weight to this argument as OCPs are neither administrative claimants nor estate professionals. Instead, the OCPs are employees critical to the Debtor's business operations, whose compensation scheme was established pre-petition. If the Debtor cannot ensure that OCPs will be paid as before, the estate runs the risk of incurring considerable expense and delay to locate and hire similarly-skilled professionals. *See Debtor's Objection* at 4. To ensure the equal treatment of its professionals, the Committee further argues that the *Lazar* decision supports approval of the Payment Procedures. However, the facts presented in *Lazar* are inapposite to the current situation. The unequal treatment discussed in *Lazar* was the result of a court's decision to subordinate the payment of fees owed to an administrative claimant in favor of similarly-placed claimants. *See In re Lazar*, 83 F.3d at 308. Additionally, the *Lazar* court did not consider an alternative compensation arrangement akin to *Knudsen*. Here, there is no evidence that

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disapproval of the Payment Procedures will result in subordination of the professionals' claims. The Court cannot presently conclude that the Debtor will be incapable of paying estate professionals on an interim basis.

Nonetheless, the claim that the Committee's professionals have been treated differently from other estate professionals is a serious concern. The Debtor is instructed to enter into a good faith dialogue with the Committee over the disbursement of an adequate retainer to the Committee's professionals. If this proceeding expands in scope or complexity, failure to consider the expenses borne by the Committee and its professionals could prove prejudicial to unsecured creditors. Under such circumstances, approval of a *Knudsen*-type compensation scheme would be warranted.

For the time being, however, the Employment Applications have failed to establish that the Payment Procedures are justified.

### **III. Conclusion**

For the reasons set forth above, the Court is prepared to find that the Payment Procedures are not warranted at this time. Compensation of fees and expenses accrued by WS and Force 10 will be governed pursuant to §§ 330 and 331. The remainder of the Employment Applications are granted according to the terms and conditions set forth therein.

The Committee is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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**Chapter 11**

**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

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**2:20-15501 Chineseinvestors.com, Inc.**

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**#7.00** HearingRE: [114] Application to Employ Force 10 LLC as Financial Advisor Notice of Application and Application by the Official Committee of Creditors Holding Unsecured Claims to Employ Force 10 LLC as Financial Advisor; Declaration of Adam Meislik in Support Thereof

Docket 114

**Tentative Ruling:**

8/18/2020

See Cal. No. 6, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato



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**2:20-15501 Chineseinvestors.com, Inc.**

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**#8.00** Hearing  
RE: [60] Motion to Supplement Emergency Motion of Debtor for an Order Authorizing the Debtor to Employ Additional Professionals Used in the Ordinary Course of Business

Docket 60

**Tentative Ruling:**

8/18/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Court is prepared to grant the Motion with respect to all of the proposed ordinary course professionals (the "OCPs") except Ferruci Law Group ("Ferruci") and Suiqing Wu ("Wu"). The Debtor has not provided sufficient detail regarding the services to be performed by Ferruci and Wu to enable the Court to determine whether these professionals may be properly retained as OCPs. The Debtor shall appear to provide additional information regarding the nature of the services to be performed by these professionals.

**Pleadings Filed and Reviewed:**

- 1) Motion to Supplement Emergency Motion of Debtor for an Order Authorizing the Debtor to Employ Additional Professionals Used in the Ordinary Course of Business [Doc. No. 60] (the "Motion")
- 2) Notice of Opposition and Request for a Hearing [filed by the Official Committee of Unsecured Creditors] [Doc. No. 109]
- 3) Notice of Hearing on Debtor's Motion to Supplement Emergency Motion of Debtor for an Order Authorizing the Debtor to Employ Additional Professionals Used in the Ordinary Course of Business [Doc. No. 121]
- 4) Debtor's Reply to the Committee's Opposition to the Debtor's Motion to Supplement Emergency Motion of Debtor for an Order Authorizing the Debtor to

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, August 19, 2020

Hearing Room 1568

10:00 AM

CONT... **Chineseinvestors.com, Inc.**

**Chapter 11**

Employ Additional Professionals Used in the Ordinary Course of Business [Doc. No. 127]

## **I. Facts and Summary of Pleadings**

### **A. Background**

ChineseInvestors.com, Inc. (the “Debtor”) filed a voluntary Chapter 11 petition on June 19, 2020 (the “Petition Date”). The Debtor is a financial information web portal that offers news and information regarding financial markets in Chinese. The Debtor also provides investor relations services for companies requiring Mandarin language support, which includes translating client releases into English from Mandarin or vice versa, increasing awareness of clients and their stock, and helping clients move from the pink sheets to more established public securities exchanges.

On July 7, 2020, the Court granted the Debtor’s first-day motion for authorization to retain and pay professionals employed in the ordinary course of business (the “OCPs”). *See* Doc. Nos. 3 (the “OCP Motion”) and 44 (the “OCP Order”). The Court found that the OCPs that the Debtor sought to employ performed services that would be necessary regardless of whether a bankruptcy petition had been filed; that the OCPs would not play a significant role in the administration of the estate; and that employment of the OCPs was authorized under § 327(b). The OCP Order authorized the Debtor to retain and compensate OCPs in accordance with the following procedures:

- 1) Within forty-five days after service of an order granting the OCP Motion, each ordinary course professional shall file a declaration establishing that they are a disinterested party within the meaning of Bankruptcy Rule 2014(a) (the “Disinterestedness Declaration”). The Disinterestedness Declaration shall be served upon parties entitled to notice; such parties shall have fourteen days to object to the retention of the ordinary course professional. If no objection is timely filed, the employment of the ordinary course professional shall be deemed approved without further order of the Court.
- 2) While the case is pending, the fees of each ordinary course professional shall not exceed \$10,800 per month on average over a rolling three-month period (the “OCP Cap”). To the extent that fees exceed the OCP Cap, the ordinary course professional shall file a notice and invoice setting forth the services rendered and fees incurred (a “Notice of Excess Fees”). Interested parties shall have fourteen days to object to the Notice of Excess Fees. If no objection is

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timely filed, the excess fees shall be deemed approve, and the ordinary course professional may be paid 100% of its fees and expenses without the need to file a formal fee application.

OCP Order at ¶ 2.

**B. Summary of Papers Filed in Connection with the Motion**

Debtor moves for an order authorizing it to retain additional OCPs, *nunc pro tunc* to the Petition Date. Debtor states that since the filing of the OCP Motion, management has identified additional OCPs that should be covered by the OCP Order. Debtor seeks to extend the scope of the OCP Order to cover the following additional OCPs (the "Additional OCPs"):

<b>Professional</b>	<b>Services Rendered</b>
Delray Wannemacher	Independent Director, located in the United States
King Fe Leung aka Patrick Leung	Chief Financial Officer, located in Hong Kong
Sina.com	Online media company and provider of mobile value-added services
GlobalOne Filings, Inc.	Agent responsible for filing documents with the SEC
Ferruci Law Group	Legal services
Quote Media	Financial services
Phoenix Satellite Television (US) Inc.	Advertising services
Zhang Ling	International foreign-exchange broker
Suiqing Wu	Accountant for China office

The Official Committee of Unsecured Creditors (the "Committee") opposes the Motion. The Committee states that it would have opposed the OCP Motion had it been in existence at the time of the hearing on the OCP Motion, and requests that the Court reconsider the ruling granting the OCP Motion for the following reasons:

- 1) At least one of the professionals employed under the OCP Order, attorney Melissa N. Armstrong, has been involved in the administration of the estate. Armstrong testified extensively at the § 341(a) meeting of creditors,

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answering numerous questions addressed to the Debtor's principal Warren Wei Wang.

- 2) The OCPs cannot be employed under § 327(b) because that section applies only to professionals "regularly employed ... on salary," and none of the OCPs are salaried employees of the Debtor.
- 3) After paying the OCPs, the estate might not have funds sufficient to pay the Committee's professionals, in which case the OCPs would receive payment ahead of the Committee's professionals in violation of the priorities set forth in the Bankruptcy Code.

The Debtor makes the following arguments in reply to the Committee's opposition:

- 1) The Committee's request for reconsideration of the OCP Order should be denied as procedurally improper. The Committee should have presented this request to the Court by way of a separately noticed motion.
- 2) The Committee's opposition to the Motion is inconsistent with the position taken by the Committee in support of its applications to employ general bankruptcy counsel and a financial advisor. In connection with these employment applications, the Committee seeks authorization for its professionals to be paid on a monthly basis, subject to the same \$10,800 per month cap applicable to OCPs. Yet the Committee simultaneously opposes the Debtor's request to retain and employ additional OCPs. The Committee's opposition is not motivated by a concern for the integrity of the estate, but rather by a desire to guarantee that funds are available to pay the Committee's professionals.
- 3) The Debtor has established that the OCPs are not involved in administering the estate but instead provide services necessary in the ordinary course of the Debtor's business. *See* Wang Decl. [Doc. No. 9] at ¶ 69 ("The Ordinary Course Professionals provide services for the Debtor in a variety of matters unrelated to this Chapter 11 case, including general legal services, accounting services, auditing and tax services, and certain consulting services.... The services provided by the Ordinary Course Professionals are not specific to the Chapter 11 Case or the Debtor's restructuring, but are instead necessary to the day-to-day continuation of the Debtor's operations.").

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## **II. Findings of Fact and Conclusions of Law**

The Court declines to consider the Committee's request to reconsider the OCP Order. It was not procedurally proper for the Committee to seek reconsideration in its opposition to the Motion. The Committee may renew its request for reconsideration by way of a separately noticed motion. [Note 1]

Having declined to reconsider the OCP Order, the Court turns to the remaining question posed by the Motion—whether it is appropriate to extend the scope of the OCP Order to apply to the Additional OCPs. As explained in *In re That's Entm't Mktg. Grp., Inc.*, professionals are required to obtain employment under § 327(a) only if they perform services necessary to the administration of the estate:

For purposes of interpreting § 327, the term “professional persons,” is a “term of art reserved for those persons who play an intimate role in the reorganization of a debtor's estate.” *In re Johns–Manville Corp.*, 60 B.R. 612, 619 (Bankr.S.D.N.Y.1986). *See also Matter of D'Lites of America, Inc.*, 108 B.R. 352 (Bankr.N.D.Ga.1989) (under § 327(a), “a professional person is one who takes a central role in the administration of the bankruptcy estate and in the bankruptcy proceedings”). A person's status as a “professional” is not determinative; the inquiry focuses on that person's duties. “If the duties involved are central to the administration of the estate, such duties are professional in nature.” *In re Sieling Associates Ltd. Partnership*, 128 B.R. 721, 723 (Bankr.E.D.Va.1991).

168 B.R. 226, 230 (N.D. Cal. 1994).

To the extent that the Additional OCPs perform services that do not pertain to the administration of the estate and that would be necessary regardless of whether the Debtor had sought bankruptcy protection, the Court finds extension of the OCP Order to the Additional OCPs to be appropriate. The evidence submitted by the Debtor establishes that the services to be performed by Delway Wannemacher, King Fe Leung aka Patrick Leung, Sina.com, GlobalOne Filings, Inc., Quote Media, Phoenix Satellite Television (US) Inc., and Zhang Ling do not pertain to the administration of the estate. The Debtor is authorized to retain and compensate these Additional OCPs in accordance with the provisions of the OCP Order.

The Debtor has not provided sufficient detail regarding the services to be performed by Ferruci Law Group and Suiqing Wu to enable the Court to determine

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whether these professionals may be properly retained as OCPs. The Debtor states only that Ferruci Law Group (“Ferruci”) will perform “legal services” and that Suiqing Wu (“Wu”) is an “accountant for China office.” The Debtor shall appear to provide additional detail regarding the services that Ferruci and Wu will perform.

The Committee opposes employment of the Additional OCPs on the ground that sufficient funds may not be available to pay the fees of the Committee’s professionals after payment of the Additional OCPs. The Committee’s argument overlooks the fact that employment and retention of the Additional OCPs are necessary to the operation of the Debtor’s business. Declining to authorize retention of the Additional OCPs could compromise the Debtor’s continued business operations, bringing about the very administrative insolvency that the Committee fears.

**Note 1**

The Committee argues that Melissa N. Armstrong should not have been retained as an OCP because she testified at the § 341(a) meeting. This argument goes to the Committee’s request for reconsideration of the OCP Order, and therefore the Court does not consider it at this time. As stated, the Committee may renew its request for reconsideration of the OCP Order by way of motion.

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

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

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**2:13-27702 Morad Javedanfar**

**Chapter 7**

Adv#: 2:15-01363 JL AM Plus, LLC v. Neman et al

**#9.00** Hearing  
RE: [366] Application for Attorneys' Fees on Appeal Pursuant to Court's  
Memorandum of Decision. (Hewlett, Douglas)

FR. 8-12-20

Docket 366

**Tentative Ruling:**

8/18/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, MBN's opposition is **OVERRULED**, and the Motion is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) JL AM Plus, LLC's Application for Attorneys' Fees on Appeal Pursuant to the Bankruptcy Court's Memorandum of Decision [Doc. No. 366] (the "Motion")
  - a) Declaration of John S. Purcell in Support of JL AM Plus, LLC's Application for Attorneys' Fees on Appeal Pursuant to the Court's Memorandum of Decision [Doc. No. 367]
- 2) Opposition by Defendant MBN Real Estate Investments, LLC to Motion for Attorneys' Fees [Doc. No. 373] (the "Opposition")
- 3) JL AM Plus, LLC's Reply in Support of Application for Attorneys' Fees on Appeal

**I. Facts and Summary of Pleadings**

On October 7, 2019, the Court entered judgment in favor of JL AM Plus, LLC ("JLAMP") and against MBN Real Estate Investments, LLC ("MBN"). *See* Doc. No.

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**Chapter 7**

342 (the "Judgment"). The Judgment provided that JLAMP was entitled to damages in the total amount of \$1,813,635.62, consisting of principal damages of \$1,218,514.75 plus attorneys' fees and costs of \$595,120.87. On October 18, 2019, MBN appealed the Judgment to the Bankruptcy Appellate Panel (the "BAP"). On July 8, 2020, the BAP affirmed the Judgment. On August 7, 2020, MBN appealed the BAP's affirmance of the Judgment to the Ninth Circuit.

JLAMP moves for attorneys' fees in the amount of \$152,955.95 and costs in the amount of \$49.25 for work performed enforcing the Judgment and in connection with the appeal (the "Motion"). MBN makes the following arguments in opposition to the Motion:

- 1) The Motion is premature because it was filed before the BAP issued its mandate returning jurisdiction to the Bankruptcy Court.
- 2) JLAMP's hourly rates are 40% higher than the rates billed by MBN. JLAMP's hourly rates should be reduced so that they equal the rates billed by MBN.
- 3) The hours billed by JLAMP are excessive. JLAMP's primary work product was its 50-page appellate brief. JLAMP has billed approximately \$3,000 for each page of the brief, which is excessive.
- 4) The fees requested are disproportionate to the amount recovered. JLAMP purchased a claim from the Chapter 7 Trustee for \$905,000, yet recovered only \$1,218,514.75 on that claim, for a net recovery of \$313,514.75. The total fees requested in the present Motion are about half the size of the net recovery.
- 5) JLAMP's time entries are block-billed, which prevents MBN and the Court from properly evaluating the appropriateness of the fees requested.

JLAMP makes the following arguments in reply to MBN's opposition:

- 1) The opposition should be stricken because it was filed one day late.
- 2) MBN's argument that the Motion was premature because it was filed prior to the issuance of the mandate is bad-faith re-interpretation of Local Bankruptcy Rule 7054-1. LBR 7054 requires that an application for attorneys' fees be filed within fourteen days after the entry of judgment and makes no reference to the issuance of the mandate.
- 3) The Court has already rejected MBN's argument that JLAMP's fees



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should be reduced to the rates charged by MBN's counsel. MBN is barred by the law of the case from reasserting this argument.

- 4) The hours billed by JLAMP are not excessive. In its Statement of Issues on Appeal, MBN initially identified eleven issues for appeal. JLAMP reasonably began researching and preparing arguments with respect to all these issues. In its opening brief, MBN abandoned many of its arguments. JLAMP had no way of knowing that MBN would not pursue many of the arguments identified in the Statement of Issues on Appeal, and it was reasonable for JLAMP to initiate preparations to defend against all of these arguments.
- 5) There is no merit to MBN's argument that JLAMP's fees should be reduced because they are disproportionate to the net amount recovered. Attorneys' fees are not determined by reference to the amount of recovery either in the trial court or through affirmance of the appeal.
- 6) MBN's assertion that JLAMP block-billed is conclusory. Because MBN has failed to identify any billing entries that lack sufficient detail, it has not carried its burden with respect to this argument.

## **II. Findings of Fact and Conclusions of Law**

Before turning to the merits, the Court first disposes of several threshold matters. First, it is appropriate for the Court to rule upon the Motion, notwithstanding the fact that MBN's appeal of the Judgment is currently pending before the Ninth Circuit. *See Masalosalo by Masalosalo v. Stonewall Ins. Co.*, 718 F.2d 955, 957 (9th Cir. 1983) ("The district court retained the power to award attorneys' fees after the notice of appeal from the decision on the merits had been filed. Recognition of that authority best serves the policy against piecemeal appeals. It will prevent hasty consideration of postjudgment fee motions. It will prevent postponement of fee consideration until after the circuit court mandate, when the relevant circumstances will no longer be fresh in the mind of the district judge.").

Second, the Court declines to strike MBN's opposition solely because it was filed one day late. JLAMP was not unduly prejudiced by the untimely filing.

Turning to the merits, the Court overrules MBN's opposition to the Motion, and finds that the fees requested are appropriate.

First, there is no merit to MBN's contention that the Motion was premature because it was filed before the BAP issued its mandate returning jurisdiction to the Bankruptcy Court. LBR 7054-1(g) provides that "a party seeking an award of

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**Chapter 7**

attorneys' fees where such fees may be awarded must file and serve a motion not later than 14 days after entry of judgment or other final order, unless otherwise ordered by the court." JLAMP complied with LBR 7054-1(g) by filing the Motion within fourteen days after the BAP affirmed the Judgment. There is no jurisdictional bar to the Court hearing the Motion because the mandate was issued prior to the date of this hearing.

Second, MBN is barred by the doctrine of the law of the case from asserting that JLAMP's fees are excessive because JLAMP's counsel bills at a higher rate than MBN's counsel. "Under the 'law of the case' doctrine, a court is ordinarily precluded from reexamining an issue previously decided by the same court, or a higher court, in the same case." *Richardson v. United States*, 841 F.2d 993, 996 (9th Cir.), *amended*, 860 F.2d 357 (9th Cir. 1988). "For the doctrine to apply, the issue in question must have been 'decided explicitly or by necessary implication in [the] previous disposition.'" *United States v. Lummi Indian Tribe*, 235 F.3d 443, 452 (9th Cir. 2000). The Court has previously rejected MBN's argument that JLAMP's counsel's billing rate is excessive:

MBN's argument that the rates [charged by JLAMP's counsel] are excessive, simply because they exceed the rates charged by MBN's counsel, misses the mark. Nothing within the reasonable hourly rate calculation requires that the rates charged by the prevailing party be on parity with the rates charged by opposing counsel. Further, MBN's argument presumes, without any supporting evidence, that its own rates are a proxy for prevailing market rates. Because MBN has not introduced any persuasive evidence that the rates of JLAMP's counsel exceed prevailing market rates, its objection is overruled.

Memorandum of Decision Finding that JLAMP is Entitled to Attorneys' Fees and Costs in the Amount of \$595,120.87 [Doc. No. 341] at 6.

MBN's argument that JLAMP's fees are excessive because they are disproportionate to JLAMP's net recovery is also without merit. The Court "must calculate awards for attorneys' fees using the 'lodestar' method, and the amount of that fee must be determined on the facts of each case. The 'lodestar' is calculated by multiplying the number of hours the prevailing party reasonably expended on the litigation by a reasonable hourly rate." *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 978 (9th Cir. 2008) (internal citations and quotations omitted). Where, as here, the fees awarded will not be paid from the bankruptcy estate, nothing within the

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lodestar calculation requires that a fee award be limited based on the amount of the underlying judgment. *See, e.g., Vo v. Las Virgenes Mun. Water Dist.*, 79 Cal. App. 4th 440, 442–43, 94 Cal. Rptr. 2d 143, 145 (2000) (awarding attorneys' fees of \$470,000 on an underlying judgment of \$40,000); *Cruz v. Ayromloo*, 155 Cal. App. 4th 1270, 1276, 66 Cal. Rptr. 3d 725, 730 (2007) ("It is not uncommon to award attorneys' fees in an amount higher than the total damages awarded to a plaintiff or plaintiffs in a particular case. Appellant cites no authority for the proposition an award of attorneys' fees must always be less than the award of damages in a given case, and we are aware of none.").

In connection with JLAMP's prior application for fees, the Court has found that the rates charged by its counsel are reasonable. For work performed during 2020, counsel has slightly increased its rates. Taking into account the experience, skill, and reputation of JLAMP's counsel, the Court finds that the hourly rates charged are reasonable. The hourly rates are consistent with prevailing market rates for practitioners of comparable experience, skill, and reputation in the Central District of California. The Court notes that counsel has applied a 10% across-the-board discount to its bill.

The Court must next determine whether the number of hours expended on the litigation by JLAMP's counsel was reasonable. "Ultimately, a 'reasonable' number of hours equals '[t]he number of hours ... [which] could reasonably have been billed to a private client.'" *Gonzalez v. City of Maywood*, 729 F.3d 1196, 1202 (9th Cir. 2013) (internal citations omitted).

JLAMP seeks fees of \$152,955.95 and costs of \$49.25 for (1) obtaining affirmance of the Judgment, (2) preparing the instant Motion, and (3) attempting to enforce the Judgment. Counsel spent a total of 210.1 hours performing these tasks. Having reviewed counsel's billing records, the Court finds that the number of hours spent is reasonable in light of the results obtained. As aptly observed by one court: "By and large, the court should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case; after all, he won, and might not have, had he been more of a slacker." *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008). The Court rejects MBN's contention that JLAMP's billing records do not contain sufficient detail to enable the Court to assess the reasonableness of the hours billed.

MBN's framing of JLAMP's fee request in terms of the cost per page of JLAMP's appellate brief oversimplifies the nature of this litigation. The appeal involved a number of contested issues of law and fact. Counsel was required to use skill and

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**Chapter 7**

judgment in responding to each of the arguments that MBN advanced in its attempt to obtain reversal of the Judgment. To view counsel's services solely in terms of the cost for each page of an appellate brief does a disservice to the complex work that attorneys perform.

**III. Conclusion**

Based upon the foregoing, MBN's opposition is **OVERRULED**, and JLAMP is awarded attorneys' fees in the amount of \$152,955.95 and costs in the amount of \$49.25. Within seven days of the hearing, JLAMP shall submit a judgment incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Morad Javedanfar

Represented By  
Andre A Khansari

**Defendant(s):**

Morad Neman

Represented By  
Yuriko M Shikai  
Timothy L Neufeld  
Jennifer B MikoLevine

MBN Real Estate Investments, LLC

Represented By  
Stephen F Biegenzahn  
Jennifer B MikoLevine  
Paul S Marks

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**CONT... Morad Javedanfar**

**Chapter 7**

**Joint Debtor(s):**

Yaffa Javedanfar

Represented By  
Andre A Khansari

**Plaintiff(s):**

JL AM Plus, LLC

Represented By  
Douglas S Hewlett

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Anthony A Friedman

**United States Bankruptcy Court  
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**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01404 Elissa D. Miller, solely in her capacity as chapte v. BMC Stock Holdings,

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:18-ap-01404. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against BMC Stock Holdings, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-28-19; 5-25-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-28-19**

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

BMC Stock Holdings, Inc., a

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
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**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-13016 Sharp Edge Enterprises**

**Chapter 7**

Adv#: 2:18-01163 Leslie v. Reihanian et al

**#2.00 Trial Date Set**

RE: [10] Amended Complaint by Christian T Kim on behalf of Sam S. Leslie, Sam S Leslie (TR) against Leon Reihanian. (RE: related document(s)1 Adversary case 2:18-ap-01163. Complaint by Sam S. Leslie against Leon Reihanian. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)) filed by Plaintiff Sam S. Leslie). (Kim, Christian)

fr. 6-11-19; 7-29-19; 1-15-20

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-25-2021 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

Sharp Edge Enterprises

Represented By  
Peter A Davidson

**Defendant(s):**

Leon Reihanian

Represented By  
Raymond H. Aver

DOES 1-20, inclusive

Pro Se

Abraham Reihanian, as Trustee of

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Christian T Kim  
James A Dumas Jr

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Christian T Kim  
James A Dumas Jr

**United States Bankruptcy Court  
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**CONT... Sharp Edge Enterprises**

**Chapter 7**



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**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#3.00** Trial Date Set

RE: [11] Crossclaim by HSBC Bank, N.A. against Jason Young Cho, Youngduk Duk Cho

Docket 11

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Represented By  
Jennifer Witherell Crastz

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1639**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01387 Mastan, Chapter 7 Trustee v. Bank of Hope et al

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01387. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of Hope, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 6-22-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTNUED 11-30-20 AT 9:00 AM.**

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

DOES 1-10 inclusive

Pro Se

Youngduk Duk Cho

Pro Se

Jason Young Cho

Pro Se

Bank of Hope

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1639**

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9:00 AM

**CONT...**

**Keystone Textile, Inc.**

Meghann A Triplett  
Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1575 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1575**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#5.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

fr: 6-22-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-15-20**

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1575 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1575**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#6.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr: 6-22-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-16-20**

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

Adv#: 2:18-01260 Amin v. Emein

**#7.00** Trial Date Set RE: [21] Amended Complaint 2nd Amended by Michael N Berke on behalf of Joseph Amin against Kami Emein. (Berke, Michael)

fr: 7-29-19, 9-30-19; 1-27-20; 5-25-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONITNUED 11-30-2020 AT 9:00 A.M.**

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

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Defendant(s):**

Kami Emein

Represented By  
TJ Fox

**Plaintiff(s):**

Joseph Amin

Represented By  
Michael N Berke

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01255 Ehrenberg, Chapter 7 Trustee v. Hsu, an Individual

**#8.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01255. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against George Hsu, an Individual. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-10-20**

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

George Hsu, an Individual

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

Adv#: 2:19-01256 Ehrenberg, Chapter 7 Trustee v. Hsu

**#9.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01256. Complaint by Howard M Ehrenberg, Chapter 7 Trustee against Lillian Yu-Li Hsu. (Charge To Estate). Complaint For Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Werth, Steven)

fr: 5-25-2020

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 2-10-20**

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Defendant(s):**

Lillian Yu-Li Hsu

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Chapter 7

Represented By  
Steven Werth

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01453 Mastan (TR) v. Zendedel

**#10.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01453. Complaint by Peter J. Mastan (TR) against Nazila Zendedel. (Charge To Estate). Complaint for: (1) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.07]; (2) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.05, 3439.07]; (3) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (4) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (5) Turnover of Property [11 U.S.C. § 362] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)),(91 (Declaratory judgment)) (Mang, Tinho)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD ON 1-14-20**

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Nazila Zendedel

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#11.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01137. Complaint by G-Sight Solutions, LLC against Ryan James McMillin, G-Sight Solutions, Inc., a California Corporation. 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)),(14 (Recovery of money/property - other)) (Zshornack, Errol)

FR. 4-27-20; 5-25-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-3-20**

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

G-Sight Solutions, Inc., a California

Pro Se

Ryan James McMillin

Pro Se

**Plaintiff(s):**

G-Sight Solutions, LLC, a California

Pro Se

Elite Optoelectronics Co., Ltd a

Pro Se

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-14464 Kevin Garnier**

**Chapter 7**

Adv#: 2:19-01233 Blue v. Garnier

**#12.00** Trial

RE: [1] Adversary case 2:19-ap-01233. Complaint by Rolando Blue against Kevin Garnier. 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)) (Kaplan, Jerome)

FR. 5-26-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-29-20 AT 9:00 A.M.**

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

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Rolando Blue

Represented By  
David S Kadin  
Jerome Kaplan

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-14528 Allen Joseph MacQuarrie**

**Chapter 7**

Adv#: 2:19-01144 Borish et al v. Tabingo et al

**#13.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01144. Complaint by Stephen & Ami Borish against Allen Joseph MacQuarrie. (d),(e)),(14 (Recovery of money/property - other)),(62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Bonar, Roxanne)

FR. 4-27-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Allen Joseph MacQuarrie

Represented By  
Shawn P Huston

**Defendant(s):**

Celgine Tabingo Pro Se

Clarke Miller Pro Se

KarmaBox Vending Pro Se

MyKarmabox.com Pro Se

Urban Vendor, Inc Pro Se

Does 1 Through 20, Inclusive Pro Se

Allan J Macquarrie Pro Se

**Plaintiff(s):**

Stephen Borish Pro Se

Ami Borish Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Allen Joseph MacQuarrie**

**Chapter 7**

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#14.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01423. Complaint by Miguel Hernandez Cruz against Shamim Ahemmed. willful and malicious injury)) (Berke, Michael)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-28-20 AT 9:00 A.M.**

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

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Pro Se

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-18227 Albert Edward Connie**

**Chapter 7**

Adv#: 2:19-01447      Johnston v. Connie

**#15.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01447. Complaint by Cindy Johnston against Albert Edward Connie. (Charge To Estate). (Attachments: # 1 Exhibit A-G In Support of Complaint To Determine Dischargeability of Debt [11 U.S.C. 523(a)(2)(a), (4), (6) # 2 Supplement Proof of Service of Documents) 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)) (Malczynski, Matthew)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4/6/20**

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

Albert Edward Connie	Pro Se
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**Defendant(s):**

Albert Edward Connie	Pro Se
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**Joint Debtor(s):**

Sally Ann Connie	Pro Se
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**Plaintiff(s):**

Cindy Johnston	Represented By Matthew Malczynski
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**Trustee(s):**

Heide Kurtz (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20888 Venustiano Lopez Carranza**

**Chapter 7**

Adv#: 2:19-01460 Pringle v. Carranza et al

**#16.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01460. Complaint by John P. Pringle against Venustiano Lopez Carranza, Patricia Hernandez, Jessey Carranza, Wendy J. Flores, Raul Hernandez. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Marchisotto, Michelle)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12/5/19**

**Party Information**

**Debtor(s):**

Venustiano Lopez Carranza

Represented By  
Erika Luna

**Defendant(s):**

Venustiano Lopez Carranza

Pro Se

Patricia Hernandez

Pro Se

Jessey Carranza

Pro Se

Wendy J. Flores

Pro Se

Raul Hernandez

Pro Se

**Joint Debtor(s):**

Patricia Hernandez

Represented By  
Erika Luna

**Plaintiff(s):**

John P. Pringle

Represented By  
Michelle A Marchisotto

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Venustiano Lopez Carranza**

**Chapter 7**

**Trustee(s):**

John P Pringle (TR)

Represented By  
Michelle A Marchisotto

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1639**

9:00 AM

**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01433 United International Mortgage Solutions, Inc. v. HERNDON et al

**#17.00** Trial Date Set  
RE: [1] Adversary case 2:19-ap-01433. Complaint by United International Mortgage Solutions, Inc. against SHERWOOD HERNDON, an individual. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 1-23-20**

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

United International Mortgage	Represented By Matthew D. Resnik Roksana D. Moradi-Brovia
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**Defendant(s):**

SHERWOOD HERNDON	Pro Se
All Persons or Entities Unknown	Pro Se
DOES 1 to 100, inclusive	Pro Se

**Plaintiff(s):**

United International Mortgage	Represented By Matthew D. Resnik
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20698 United International Mortgage Solutions, Inc. Chapter 11**

Adv#: 2:19-01434 United International Mortgage Solutions, Inc. v. WALTER WALLACE, an

**#18.00** Trial Date Set  
RE: [1] Adversary case 2:19-ap-01434. Complaint by United International Mortgage Solutions, Inc. against WALTER WALLACE, an individual, KENYATTA MONIFA, an individual. (Charge To Estate). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) (Resnik, Matthew)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER HEARING HELD 1-14-20**

**Party Information**

**Debtor(s):**

United International Mortgage	Represented By Matthew D. Resnik Roksana D. Moradi-Brovia
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**Defendant(s):**

WALTER WALLACE, an individual	Pro Se
KENYATTA MONIFA, an	Pro Se
DOES 1 to 10 Inclusive	Pro Se
All Persons or Entities Unknown	Pro Se

**Plaintiff(s):**

United International Mortgage	Represented By Matthew D. Resnik
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01377 Packaging Corporation of America v. Bonert et al

**#19.00** Trial Date Set RE: [10] Amended Complaint with proof of service by Scott E Blakeley on behalf of Packaging Corporation of America against Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's 3144, LLC, Bonert's Incorporated dba Bonert's Slice of Pie, Bonert's Jadahasa, LLC, Bonert's MV, LLC, Bonert's Mibon LLC, DOES 1-10. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Judgement) (Blakeley, Scott)

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONITNUED 1-25-21 AT 9:00 A.M**

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Lawrence M Jacobson

DOES 1-10

Pro Se

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Packaging Corporation of America

Represented By  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01378 Coastal Carriers, LLC v. Bonert et al

**#20.00** Trial Date Set RE: [10] Amended Complaint with proof of service by Scott E Blakeley on behalf of Coastal Carriers, LLC against Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's 3144, LLC, Bonert's Incorporated dba Bonert's Slice of Pie, Bonert's Jadahasa, LLC, Bonert's MV, LLC, Bonert's Mibon LLC, DOES 1-10. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Judgement) (Blakeley, Scott)

Docket 0

**\*\*\* VACATED \*\*\* REASON: REMANDED 10-17-19**

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

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

DOES 1-10

Pro Se

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**CONT...**     **Michael Bonert**  
Bonert's Mibon LLC

**Chapter 11**

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Coastal Carriers, LLC

Represented By  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#21.00** Trial Date Set

RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Capitol Distribution Company, LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Inc., a California corporation, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

Docket 9

**\*\*\* VACATED \*\*\* REASON: CONTINUED 9-28-20 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Michael Bonert**

**Chapter 11**

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

Beefam, LLC

Represented By  
Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Capitol Distribution Company, LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

**#22.00** Trial Date Set

RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Stratas Foods LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Incorporated dba Bonert's Slice of Pie, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

Docket      9

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-28-20 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Michael Bonert**  
Beefam, LLC

Represented By  
Lawrence M Jacobson

**Chapter 11**

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 24, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15842 Sheldon Williams**

**Chapter 7**

**#100.00** Hearing  
RE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Land Rover Range Rover Sport .

Docket 8

**\*\*\* VACATED \*\*\* REASON: CONTINUED 8/31/20 AT 10:00 A.M.**

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

**Debtor(s):**

Sheldon Williams

Represented By  
Christopher D Cantore

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14376 Juan Elizardo Alvarez**

**Chapter 7**

**#1.00** HearingRE: [13] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Nissan Altima with Proof of Service. (Martinez, Kirsten)

Docket 13

**Tentative Ruling:**

8/27/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Juan Elizardo Alvarez**

**Chapter 7**

Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

Juan Elizardo Alvarez

Pro Se

**Trustee(s):**

John J Menchaca (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15409 Veronica Tokatlyan**

**Chapter 7**

**#2.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Infiniti Q50 with Proof of Service. (Martinez, Kirsten)

Docket 8

**Tentative Ruling:**

8/27/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Veronica Tokatlyan**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Veronica Tokatlyan

Represented By  
Harout G Bouldoukian

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15842 Sheldon Williams**

**Chapter 7**

**#3.00** Hearing  
RE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Land Rover Range Rover Sport .

FR. 8-24-20

Docket 8

**Tentative Ruling:**

8/27/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Sheldon Williams**

**Chapter 7**

Additionally, the Movant alleges that the instant case was filed in bad faith, given that the Debtor previously filed another bankruptcy case that implicated an interest in the subject vehicle (the "Prior Case"). *See In re Sheldon Williams*, Case No. 2:20-bk-10527-ER. The Debtor filed the Prior Case, on a *pro se* basis, on January 17, 2020. The Prior Case was dismissed on February 4, 2020, given the Debtor's failure to submit basic case commencement documents, including a certificate of credit counseling. However, the Court notes that the petition contains substantial financial information about the Debtor, including a listing of various secured and unsecured creditors, assets, income, and expenses. To assist him in commencing the Prior Case, the Debtor paid \$100 to a bankruptcy petition preparer. *See* Doc. No. 1 at 60. Therefore, the dismissal of the Prior Case appears to be the result of a unintentional oversight by the Debtor, and not part of a plan to frustrate the Movant's efforts. Based upon the foregoing, the Court finds that the instant case was not filed in bad faith.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Sheldon Williams

Represented By  
Christopher D Cantore

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Sheldon Williams**

**Chapter 7**

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16048 Juan Pablo Cruz Mendez and David Alex Bueno**

**Chapter 7**

**#4.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 Nissan Murano, VIN: 5N1AZ2AJ5LN136821 . (Ith, Sheryl)

Docket 11

**Tentative Ruling:**

8/27/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Juan Pablo Cruz Mendez and David Alex Bueno Chapter 7**

Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Juan Pablo Cruz Mendez

Represented By  
Violeta Delgado

**Joint Debtor(s):**

David Alex Bueno

Represented By  
Violeta Delgado

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16702 Robert Olin Conder, Sr. and Ann Huey Shen Conder**

**Chapter 7**

**#5.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Ford Fusion, VIN: 3FA6P0HD2HR294130 . (Ith, Sheryl)

Docket 11

**Tentative Ruling:**

8/27/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Robert Olin Conder, Sr. and Ann Huey Shen Conder**      **Chapter 7**  
day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

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

**Debtor(s):**

Robert Olin Conder Sr.

Represented By  
Paul Y Lee

**Joint Debtor(s):**

Ann Huey Shen Conder

Represented By  
Paul Y Lee

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-17208 Eric Stefon Watkins**

**Chapter 7**

**#6.00** HearingRE: [6] Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate .

Docket 6

**Tentative Ruling:**

8/27/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate [Doc. No. 6] (the "Motion")
2. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

On May 5, 2020, Eric Stefon Watkins (the "Debtor") filed a voluntary petition under chapter 7 [Case No. 2:20-bk-14689-ER] (the "Prior Case"). The Prior Case was dismissed on June 8, 2020 based on the Debtor's failure to timely submit a signed Form 122A-1.

On August 8, 2020, the Debtor filed this voluntary chapter 7 case. On Schedule D, the Debtor lists secured creditor Alaska USA Federal Credit Union (the "Credit Union"), which holds a security interest in the Debtor's vehicle. There are no other secured creditors. The Debtor now moves to continue the automatic stay as to all creditors pursuant to § 362(c)(3)(B) (the "Motion") [**Note 1**]. The Debtor asserts that the dismissal of the Prior Case was the result of an unintentional oversight—because he was not represented by an attorney at the time, he failed to grasp the significance of

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Eric Stefon Watkins**

**Chapter 7**

an order to comply with FRBP 1007. *See* Prior Case, Doc. No. 6. The Debtor has now retained counsel to assist him in the second bankruptcy case. The Debtor avers that this case was not filed in bad faith as he intends to continue making payments to the Credit Union and reaffirm the debt. Moreover, the Debtor notes that he has approximately \$1,430 in equity in his vehicle. Additionally, he asks for the continuance of the automatic stay to preclude an unsecured creditor from garnishing his wages.

As of the date of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Section 362(c)(3)(A) provides that the automatic stay terminates by its own terms thirty days after a debtor's bankruptcy filing, when the debtor has filed a prior bankruptcy case that was dismissed within one year of the second bankruptcy filing. However, pursuant to § 362(c)(3)(B), the debtor or any other interested party may seek to continue the automatic stay beyond the thirty-day period. The movant must demonstrate that the case was filed "in good faith as to the creditors to be stayed." 11 U.S.C. § 362(c)(3)(B). Under certain circumstances, a presumption of bad faith arises that the movant may rebut only by presenting clear and convincing evidence of the debtor's good faith. *See* 11 U.S.C. § 362(c)(3)(C)(i) – (ii).

One of the factors triggering the presumption of bad faith is whether the debtor failed to "file or amend the petition or other documents as required by this title or the court without substantial excuse." 11 U.S.C. § 362(c)(3)(C)(i)(II)(aa). Mere negligence or inadvertence by the debtor does not constitute substantial excuse. *See id.* Here, the failure to timely lodge an executed copy of Form 122A-1 triggers the bad faith presumption. However, based upon a review of the Motion, the commencement documents submitted in the Prior Case, and the declaration of the Debtor, the Court finds that Debtor has established by a preponderance of the evidence that this case was filed in good faith. The Motion asserts that the dismissal of the Prior Case was caused by an inadvertent oversight, which is not expected to reoccur as Debtor retained general bankruptcy counsel. Furthermore, the record supports the claim that Debtor filed this bankruptcy case to reaffirm his debt to the Credit Union and address unsecured debts in an orderly manner. The continuance of the automatic stay furthers the Debtor's objective by halting an unsecured creditor's efforts to garnish his wages. As such, the Debtor has convincingly rebutted the presumption of bad faith.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, August 31, 2020**

**Hearing Room 1568**

10:00 AM

CONT... Eric Stefon Watkins

**Chapter 7**

Moreover, the Court has not received any objection to the Motion. Accordingly, pursuant to LBR 9013-1(h), the Court presumes all interested parties consent to the continuance of the automatic stay as to all creditors.

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED.

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor checked the boxes on 1.d. and 1.e. requesting an order continuing the automatic stay as to both (i) *Secured Creditors/Lessors* and (ii) all creditors.

<b>Party Information</b>
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**Debtor(s):**

Eric Stefon Watkins

Represented By  
Eric S Bershatski

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

**#1.00 APPLICANT: Trustee - Howard M. Ehrenberg**

Hearing re [188] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

8/31/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payments, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$4,385.34, but payment will be limited to \$2,903.14 per the Trustee's Final Report [see Doc. No. 187]

Total Expenses: \$798.77, but payment will be limited to \$528.79 per the Trustee's Final Report

FTB: \$1,640.73, but payment will be limited to \$1,086.18 per the Trustee's Final Report

Bond Payments: \$15.07

Court Charges: \$1,050

UST Fees: \$325

Chapter 11 Administrative Expenses: \$87,894.10 but payment will be limited to \$0

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 1, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Fu Kong Inc.**  
per the Trustee's Final Report

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Trustee shall submit a conforming order within seven days of the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17345 Fu Kong Inc.**

**Chapter 7**

**#2.00 APPLICANT: Attorney for Trustee Fees - SulmeyerKupetz**

Hearing re [188] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

8/31/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

**Fees:** \$10,000 approved, but payment shall be limited to \$6,620.11 per Trustee's Final Report [*see* Doc. No. 187]

**Expenses:** \$1,181.35 approved but payment shall be limited to \$782.07 per Trustee's Final Report [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 1, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Fu Kong Inc.**

**Chapter 7**

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth



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**2:18-17345 Fu Kong Inc.**

**Chapter 7**

**#3.00 Charges, U.S. Bankruptcy Court**

Hearing re [188] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

8/31/2020

See Cal. No. 1, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:18-17345 Fu Kong Inc.**

**Chapter 7**

**#4.00 Fees, United States Trustee**

Hearing re [188] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

8/31/2020

See Cal. No. 1, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**2:18-17345 Fu Kong Inc.**

**Chapter 7**

**#5.00 Bond Payments - International Sureties, LTD.**

Hearing re [188] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

8/31/2020

See Cal. No. 1, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
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Los Angeles  
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**2:18-17345 Fu Kong Inc.**

**Chapter 7**

**#6.00** Other Chapter 7 Administrative Expenses - Franchise Tax Board

Hearing re [188] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

8/31/2020

See Cal. No. 1, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
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**2:18-17345 Fu Kong Inc.**

**Chapter 7**

**#7.00 APPLICANT: Accountant for Trustee Fees (Other Firm) - Menchaca & Company LLP**

Hearing re [188] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

8/31/2020

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Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

**Fees:** \$5,953 approved, but payment shall be limited to \$3,940.95 per Trustee's Final Report [*see* Doc. No. 184]

**Expenses:** \$30.20 approved but payment shall be limited to \$19.99 per Trustee's Final Report [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

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**Hearing Room 1568**

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10:00 AM

**CONT... Fu Kong Inc.**

**Chapter 7**

**Party Information**

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
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**2:18-17345 Fu Kong Inc.**

**Chapter 7**

**#8.00 APPLICANT: Attorney for D-I-P Fees (Chapter 11) - Lo & Lo LLP**

Hearing re [188] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

8/31/2020

See Cal. No. 1, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Fu Kong Inc.

Represented By  
Michael Y Lo

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Hearing Room 1568

10:00 AM

2:16-17463 Gardens Regional Hospital and Medical Center, Inc.

Chapter 11

#9.00 Hearing re [1594] Second Objection to Claim #  
256,257,267,268,269,277,279,284,285,286,290,316 by Claimant in the amount  
of \$ (Numerous Claimants) 275,135 (Approx.)

Docket 0

**Tentative Ruling:**

8/31/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Liquidating Trustee's Second Omnibus Claim Objection is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Second Omnibus Claims Objection [Doc. No. 1594] (the "Claims Objection")
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

Gardens Regional Hospital and Medical Center, Inc. (the "Debtor") filed a voluntary Chapter 11 petition on June 6, 2016 (the "Petition Date"). On September 18, 2018, the Court confirmed the Debtor's *Joint Chapter 11 Plan of Liquidation* (the "Plan"). The Plan appointed Michael R. Lane as the Liquidating Trustee responsible for, among other things, objecting to claims.

The Liquidating Trustee objects to twelve general unsecured claims (collectively, the "Claims"), on the ground that the Claims were not timely filed. *See* Doc. No. 1594 (the "Claims Objection"). No opposition to the Claims Objection is on file.

**II. Findings of Fact and Conclusions of Law**

On August 10, 2016, the Court entered an order fixing October 31, 2016 as the



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**CONT...**      **Gardens Regional Hospital and Medical Center, Inc.**      **Chapter 11**

deadline for creditors to file general unsecured claims (the "General Unsecured Claims Bar Date"). *See* Doc. No. 308. The Debtor provided notice of the General Unsecured Claims Bar Date to the holders of the Claims on August 31, 2016. *See* Doc. No. 355.

Section 502(b)(9) provides that after an objection to a claim is filed, "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 proof of such claim is not timely filed ...." Bankruptcy Rule 3003(c)(2), which implements § 502(b)(9), provides that any creditor who fails to timely file a proof of claim "shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution."

Here, each of the Claims was filed after the General Unsecured Claims Bar Date, notwithstanding the fact that each creditor received notice of the bar date. Pursuant to § 502(b)(9) and Bankruptcy Rule 3003(c)(2), the Claims are **DISALLOWED** as untimely.

Within seven days of the hearing, the Liquidating Trustee shall lodge an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Gardens Regional Hospital and

Represented By  
Samuel R Maizel  
John A Moe II

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Los Angeles  
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2:16-17463 **Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

**#10.00** Hearing re [1595] Third Objection to Claim #6,82,179 by Claimant Numerous Claimants. in the amount of \$ 34944.86 (Approx.)

Docket 0

**Tentative Ruling:**

8/31/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Liquidating Trustee's Third Omnibus Claim Objection is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Third Omnibus Claims Objection [Doc. No. 1594] (the "Claims Objection")
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

Gardens Regional Hospital and Medical Center, Inc. (the "Debtor") filed a voluntary Chapter 11 petition on June 6, 2016 (the "Petition Date"). On September 18, 2018, the Court confirmed the Debtor's *Joint Chapter 11 Plan of Liquidation* (the "Plan"). The Plan appointed Michael R. Lane as the Liquidating Trustee responsible for, among other things, objecting to claims.

The Liquidating Trustee objects to three general unsecured claims (collectively, the "Claims"), on the ground that the Claims have been released through settlement agreements entered into between the claimants and the Liquidating Trustee. *See* Doc. No. 1595 (the "Claims Objection"). No opposition to the Claims Objection is on file.

**II. Findings of Fact and Conclusions of Law**

Section 502(b)(1) requires the Court to disallow a claim that "is unenforceable

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**CONT... Gardens Regional Hospital and Medical Center, Inc. Chapter 11**

against the debtor and the property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured."

Here, each of the claimants has entered into a settlement agreement with the Liquidating Trustee that provides for the release of the Claims. Each of the settlement agreements has been approved by the Court. As a result of the settlement agreements, the Claims are unenforceable against the estate. Pursuant to § 502(b)(1), the Claims are **DISALLOWED**.

Within seven days of the hearing, the Liquidating Trustee shall lodge an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Gardens Regional Hospital and

Represented By  
Samuel R Maizel  
John A Moe II

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, September 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#11.00**

Hearing re [5173] First Omnibus Objection By Verity Holdings To BASM Guaranty Related Claims And Any Ballots Cast By The Holders Thereof Bay Area Surgical Management, LLC (Claim No. 2029); Bay Area Surgical Group, Inc. (Claim No. 5829); Sarnevesht, Robert (Claim No. 5830); Zolfaghari, Javad (Claim No. 5831); Hashemieh, Julia (Claim No. 5832); National Ambulatory Surgery Center, LLC (Claim No. 5834); Los Altos Surgery Center, LP (Claim No. 5835); Knowles Surgery Center, LLC (Claim No. 5836); SOAR Surgery Center, LLC (Claim No. 5837); and Forest Ambulatory Surgical Associates, L.P. (Claim No. 5838)

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-28-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
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**Hearing Room 1545**

10:00 AM

**2:20-14808 SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**

**#12.00** FINAL Hearing re [17] Motion For Authorization To Use Cash Collateral.

fr. 6-1-20; 7-15-20

Docket 0

**Tentative Ruling:**

8/31/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Debtor is authorized to use cash collateral in accordance with the Budget through and including December 31, 2020. A hearing on the use of cash collateral subsequent to December 31, 2020 shall take place on **December 16, 2020, at 10:00 a.m.** The deadline for the Debtor to file a disclosure statement and plan of reorganization is **February 28, 2021.**

The Debtor shall submit further evidence in support of the continued use of cash collateral, including an updated Budget, by no later than **November 23, 2020.** By that same date, the Debtor shall provide notice of the continued hearing and shall file a proof of service so indicating. Opposition to the continued use of cash collateral is due by **December 2, 2020;** the Debtors' reply to any opposition is due by **December 9, 2020.**

**Pleadings Filed and Reviewed:**

- 1) Declaration of Robert. B. Rosenstein in Support of Motion For Authorization to Use Cash Collateral And Provide Adequate Protection [Doc. No. 50] (the "Rosenstein Declaration")
- 2) Supplemental Declaration of Walter Thomas Schreiner in Support of Motion For

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**CONT... SCHREINER'S FINE SAUSAGES, INC. Chapter 11**

- Authorization to Use Cash Collateral And Provide Adequate Protection [Doc. No. 64] (the "Supplemental Schreiner Declaration")
- 3) Notice of Continued Hearing on Motion For Authorization to Use Cash Collateral And Provide Adequate Protection [Doc. No. 63] (the "Motion")
  - 4) Order Granting Emergency Motion for Authorization to Use Cash Collateral [Doc. No. 29]
  - 5) Court's Findings and Conclusions re Authorization to Use Cash Collateral [Doc. No. 27]
  - 6) Emergency Motion for Authorization to Use Cash Collateral [Doc. No. 20]
    - a) Declaration of Walter Thomas Schreiner
  - 7) As of the preparation of this tentative ruling, no objection is on file

### **I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, Schreiner's Fine Sausages, Inc. (the "Debtor") filed a voluntary chapter 11 petition on May 26, 2020 (the "Petition Date"). The Court previously entered an order authorizing Debtor to use cash collateral, on an interim basis, through and including July 15, 2020. *See* Doc. No. 29. On July 22, 2020, the Court authorized the extended use of cash collateral through and including August 31, 2020 based on an updated financial budget submitted by the Debtor. *See* Doc. No. 51. The present hearing was set to determine whether the Debtor is entitled to use cash collateral subsequent to August 31, 2020 [**Note 1**]. The Debtor seeks authorization to use cash collateral through and including December 31, 2020, on the terms and conditions previously approved by this Court. No opposition to the Motion is on file.

The Debtor operates a family-owned wholesale and retail meat market and restaurant, conducting business as "Schreiner's Fine Sausages," and located at 3417 Ocean View Blvd., Glendale, California 91208 (the "Business"). The Business has been managed by the Schreiner family for three generations: Marcia Schreiner holds an 85% ownership stake in the Debtor, and her son, Walter Thomas Schreiner ("W.T. Schreiner"), holds the remaining 15% interest.

The Debtor's bankruptcy filing was precipitated by certain high-interest pre-petition business loans, which the Debtor was unable repay in light of the COVID-19 pandemic. The Debtor wishes to reorganize its debts and continue business operations. As of the Petition Date, the Debtor has secured debts in the estimated amount of \$315,822.32, as follows:

- FC Marketplace, LLC, dba Funding Circle ("Funding Circle")—\$248,000

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**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**

- Celtic Bank Corporation ("Celtic Bank")—\$56,000
- Bank of America—\$11,822.32

The following claims may be subject to a perfected security interest, but the Debtor believes these debts are unsecured:

- QuarterSpot, Inc. ("QuarterSpot")—\$102,613.32 (based on proof of claim)
- BizFund, LLC ("BizFund")—\$55,000

Cash collateral will be used to fund the Debtor's ongoing operating expenses, while the Debtor continues to pursue its reorganization. *See* Doc. No. 20. In support of the continued use of cash collateral, the Debtor submitted an updated budget (the "Budget"), setting forth expected Business revenues and expenses through the month of December 2020. *See* Doc. No. 64. The Budget anticipates that the Business will generate estimated monthly sales ranging from \$141,000 to \$161,000 through the end of the year, which will leave Debtor with monthly net income averaging approximately \$2,000. The Budget projects that business revenue, the costs of goods, and business expenses will remain relatively stable for the rest of the year. The Debtor proposes to make adequate protection payments to Funding Circle in the amount of \$2,229.93 each month. The Debtor proposes to provide all other secured creditors with a replacement lien to the extent that the proposed cash collateral use dilutes the value of said creditors' liens.

As of the preparation of this tentative ruling, no objection is on file.

## **II. Findings and Conclusions**

Section 363(c)(2) requires court authorization for the use of cash collateral unless "each entity that has an interest in such cash collateral consents." In the Ninth Circuit, satisfaction of §363(c)(2)(A) requires the "affirmative express consent" of the secured creditor; "implied consent," resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368–69 (9th Cir. 1987). Absent affirmative express consent, the Debtors "may not use" cash collateral absent the Court's determination that the use is "in accordance with the provisions" of Section 363—that is, that the secured creditor's interest in the cash collateral is adequately protected. § 363(c)(2)(B) and (e).

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**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**

A secured creditor's interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365 (1988).

Based on the updated Budget figures, the Court reiterates most of the factual and legal conclusions rendered in previous ruling authorizing the use of cash collateral.

**The Secured Creditors' Interests are Adequately Protected**

The Court finds that the secured interest of Funding Circle in the Debtor's cash collateral is adequately protected. Funding Circle remains adequately protected through monthly adequate protection payments of \$2,229.93, and by the fact that the Debtor's financial projections indicate that the cash collateral is not declining in value, and business revenue will remain relatively constant. To the extent that other secured creditors claim an interest in the cash collateral, adequate protection will be provided to them by a replacement lien in post-petition property. Moreover, the Budget projects that the Debtor's business operations will continue to generate a steady stream of replacement income. *Cf. In re Megan-Racine Associates, Inc.*, 202 B.R. 660, 663 (Bankr. S.D.N.Y. 1996) (concluding that "[a]s long as there was a continuous income stream being generated by the Debtor, the fact that the Debtor consumed a portion of those monies to operate and maintain the facility each month did not diminish the value of the [secured creditor's] interest in the [cash collateral]"). In connection with previous cash collateral hearings, the Court concluded that secured creditors' liens were not falling in value. The Court finds it appropriate to maintain that finding until presented with concrete evidence to the contrary.

**The Debtor Will Suffer Irreparable Harm Absent Interim Use of Cash Collateral**

The Court finds that the Debtor will suffer irreparable harm absent the continued use of cash collateral. Use of cash collateral is necessary for the Debtor to pay employees, who are instrumental in maintaining Debtor's revenue stream. If Debtor is unable to reliably make payroll, it is likely that employees will leave, and the Debtor will be unable to operate the Business. If the Debtor is forced into a liquidation proceeding, both secured and unsecured creditors may find it difficult to recover as much as they



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**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**

would if the Debtor is preserved as a going concern. *See* Schreiner Decl., ¶ 10 (opining that Debtor's equipment—one of the Debtor's most valuable assets—is likely to fall in value upon liquidation). Without the ability to use cash collateral to sustain operations, the Debtor would be irreparably harmed. As it did before, the Court determines that the expenditures stated on the updated Budget are necessary to the Debtor's continued reorganization efforts.

### **III. Conclusion**

Based upon the foregoing, the Debtor is authorized to use cash collateral in accordance with the Budget through and including December 31, 2020. A hearing on the use of cash collateral subsequent to December 31, 2020 shall take place on **December 16, 2020, at 10:00 a.m.** Having reviewed the docket, the Court finds it appropriate to set a deadline for the Debtor to file a disclosure statement and plan of reorganization by no later than **February 28, 2021.**

The Debtor shall submit further evidence in support of the continued use of cash collateral, including an updated Budget, by no later than November 23, 2020. By that same date, the Debtor shall provide notice of the continued hearing and shall file a proof of service so indicating. Opposition to the continued use of cash collateral is due by **December 2, 2020**; the Debtors' reply to any opposition is due by **December 9, 2020.**

The Debtor shall submit an order incorporating this tentative ruling by reference within seven days of the hearing

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Separately, the Court requested an explanation concerning an apparent discrepancy with regard to three notices of insider compensation (the "Notices"). *See*

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Los Angeles  
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**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**

Doc. Nos. 34-36. The Court's concern related to a potential discrepancy between the insider compensation listed in the Notices and the officer salary figures stated in the Budget. On July 16, 2020, Debtor submitted the Rosenstein Declaration [Doc. No. 50] which clarifies that the \$6,000 compensation paid to Marcia Schreiner does not constitute officer salary. Instead, because Marcia Schreiner is the Debtor's landlord, these payments are identified as "Rent Expense" on the Budget figures.

<b>Party Information</b>
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**Debtor(s):**

SCHREINER'S FINE SAUSAGES,

Represented By  
Robert B Rosenstein

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20698 United International Mortgage Solutions, Inc.**

**Chapter 11**

**#13.00** HearingRE: [182] Application for Compensation First Interim Application by Resnik Hayes Moradi LLP, General Bankruptcy Counsel for the Debtor, for Allowance of Fees and Reimbursement of Costs for the Period September 12, 2018 Through July 9, 2020; Declarations of Sandra McBeth and Roksana D. Moradi-Brovia in Support Thereof, with Proof of Service for Roksana D. Moradi-Brovia, Debtor's Attorney, Period: 9/12/2018 to 7/9/2020, Fee: \$106,085.50, Expenses: \$3,095.06.

Docket 182

**Tentative Ruling:**

8/31/2020

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Having reviewed the first interim application for fees and expenses filed by this applicant, the Court approves the application and awards the fees and expenses as set forth below:

Fees: \$106,085.50 approved. **[Note 1]**

Expenses: \$3,095.06 approved.

**Note 1:** The Court authorizes payment of applicant's allowed fees and expenses, on an interim basis, less the sum of \$26,000 that applicant received as a retainer.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic

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appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall lodge a conforming proposed order within seven days of the hearing.

<b>Party Information</b>
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**Debtor(s):**

United International Mortgage

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

**United States Bankruptcy Court  
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**2:20-16275 Jeffrey Vinu Patel**

**Chapter 7**

**#14.00 Hearing**  
RE: [9] Motion to Redeem Property of the Estate

Docket 9

**Tentative Ruling:**

8/31/2020

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For the reasons set forth below, the Motion is GRANTED, and the Court finds that the redemption value of the Debtor's Vehicle is \$5,668. Notwithstanding the foregoing, the requested relief is contingent upon Debtor submitting an amended statement of intention with respect to the Vehicle, clarifying the Debtor's intention to redeem the Vehicle, by no later than **September 8, 2020**.

**Pleadings Filed and Reviewed:**

- 1) Motion of Debtor to Redeem Personal Property (2016 Nissan Versa Hatchback) Pursuant to 11 U.S.C. § 722 (the "Motion") [Doc. No. 12]
- 2) As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Jeffrey Vinu Patel (the "Debtor") filed a voluntary chapter 7 petition on July 12, 2020 (the "Petition Date") [Doc. No. 1]. On August 10, 2020, the Debtor filed the *Motion to Redeem Personal Property (Amended)* (the "Motion") [Doc. No. 12]. The Motion seeks to redeem a 2016 Nissan Versa Hatchback (the "Vehicle"), which the Debtor characterizes as personal property intended primarily for personal or family use, pursuant to 11 U.S.C. § 722. The Vehicle is subject to the allowed secured claim of Carmax Auto Finance ("Carmax") in the estimated amount of \$14,239. The Debtor asserts that his interest in the Vehicle is exempt, and Carmax's debt represents

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dischargeable consumer debt. *See* Motion at 3-4.

The Debtor does not discuss the current condition of the Vehicle, but information contained in a recent appraisal (the "Valuation"), affixed to the Motion as Exhibit 1, suggests that the Vehicle is in overall "fair" condition and has mileage approximately totaling 57,001. The Valuation was prepared on July 14, 2020 and appraises the average base value of the Vehicle as \$5,668, "based on Kelley Blue Book." *See* Motion, Ex. 1. Based on this evidence and citing to a series of decisions issued subsequent to the Supreme Court's opinion in *Associates Commercial Corp. v. Rash*, the Debtor contends that the redemption value of the Vehicle is \$5,668 for purposes of redemption under § 722. Moreover, the Debtor represents that he has made "arrangements" to pay Carmax the valuation amount within thirty days of an order granting the Motion. *See* Motion at 4.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

Section 722 of the Bankruptcy Code provides in full:

An individual debtor may, whether or not the debtor has waived the right to redeem under this section, redeem tangible personal property intended primarily for personal, family, or household use, from a lien securing a dischargeable consumer debt, if such property is exempted under section 522 of this title or has been abandoned under section 554 of this title, by paying the holder of such lien the amount of the allowed secured claim of such holder that is secured by such lien in full at the time of redemption.

11 U.S.C. § 722.

The amount to be paid to a creditor to redeem pursuant to § 722 is determined by 11 U.S.C. § 506(a) which provides in relevant part:

(a)(2) if the debtor is an individual in a case under chapter 7 . . . , such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of

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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.

11 U.S.C. § 506(a)(2). Courts consider retail values in the N.A.D.A. Guide or Kelley Blue Book in determining the replacement value of a vehicle for purposes of § 506(a)(2). *In re Labostrie*, 2012 WL 6554727 at \*3 (BAP 9th Cir. 2012); *In re Morales*, 387 B.R. 36, 43 and 46 (Bankr. C.D. Cal. 2008). Moreover, this Court has held that:

absent unusual circumstances, the 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 any additional evidence presented regarding the condition of the vehicle and any other relevant factors. Value should be calculated as of the petition date, not the valuation hearing. The burden in proving the reasonableness of any deviation from the guide retail value rests with the debtor because the debtor has the best access to information about the condition of the vehicle.

*In re Morales*, 387 B.R. at 45. "The changes made to Bankruptcy Code § 506 by BAPCPA now make clear that the valuation is 'as of the date of the filing of the petition.'" *In re Ayers*, 2010 Bankr. LEXIS 519 n.3 (N.D. Cal. Bankr. 2010); *see id.*

The Court further acknowledged that "the condition of the vehicle might easily be established based predominantly on declarations submitted with the motion." *Id.* at 48. Further, the fair market value "is the price which a willing seller under no compulsion to sell and a willing buyer under no compulsion to buy would agree upon after the property has been exposed to the market for a reasonable time." *In re Taffi*, 96 F.3d 1190 (9th Cir. 1996) (*en banc*), *cert. denied*, 521 U.S. 1103 (1997).

Here, the Court determines that the Valuation is the most accurate evidence proffered in support of the redemption value of the Vehicle. The appraised valuation was prepared only two days after the Petition Date, and it contemplates the Vehicle's current condition, age, and mileage. The Court notes, however, that the Vehicle's reported valuation is approximately \$800 less than the fair market value stated in the

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petition. Nevertheless, the difference in value is only nominal and the proposed valuation has not been contested by Carmax. In any case, any deviation from the Vehicle's estimated fair market value may be supported by evidence such as expert testimony, vehicle advertisements, declarations, or an appraiser report. *See In re Brown*, No. CIVA 06-00197JW, 2006 WL 3692609, at \*3 (Bankr. D.S.C. Apr. 24, 2006) (decreasing the retail value cited by creditor due to necessary repairs described in an appraiser's report). Based on the limited evidence proffered by Debtor, the Court determines that the figure reported in the Valuation is a reasonable indicator of the "the price which a willing seller under no compulsion to sell and a willing buyer under no compulsion to buy would agree upon after the property has been exposed to the market for a reasonable time." *In re Taffi*, 96 F.3d at 1190; *see also In re Morales*, 387 B.R. at 49 (the debtor established that vehicle was in "fair" condition based on "minimal" evidence).

Therefore, in accordance with § 506(a)(2), the Court finds that the valuation of \$5,668 accurately reflects the price a retail merchant would charge for the Vehicle.

Finally, § 521(a)(2)(A) requires the Debtor to file a statement of intention with respect to the retention or surrender of the Vehicle, specifying whether the debtor intends to redeem such property, within thirty days of the petition date, or a date fixed by the Court. Further, within thirty days after the first date set for the meeting of creditors under § 341(a), debtor must perform debtor's intention with respect to such property. 11 U.S.C. § 521(a)(2)(B).

On the Petition Date, the Debtor filed a Statement of Intention expressing an intention to retain the Vehicle and reaffirm the debt to Carmax. Doc. No. 1. A review of the docket indicates that Debtor has not amended the Statement of Intention to indicate that the Vehicle will be redeemed. The Debtor must also perform his intention with respect to the Vehicle within thirty days of the first date set for the meeting of creditors, which fell on August 11, 2020. Therefore, the granting of this Motion is conditioned on Debtor submitting an amended Statement of Intention, which reflects his intention to retain the Vehicle and redeem it.

### **III. Conclusion**

Based upon the foregoing, the Court finds that the redemption value of the Debtors' Vehicle is \$5,668. Notwithstanding the foregoing, the requested relief is



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contingent upon Debtor submitting an amended statement of intention with respect to the Vehicle, clarifying the Debtor's intention to keep and redeem the Vehicle, by no later than **September 8, 2020**.

The Debtor shall lodge a conforming order within seven (7) days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Jeffrey Vinu Patel

Represented By  
Michael R Totaro

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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**2:19-20564 Gregory Tardaguila**

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**#1.00 Hearing**  
RE: [44] Trustee's Motion to Approve Compromise With Syn-Care Wellness Center, Inc., Kimberly Didomenicantonio and Dominic Didomenicantonio

Docket 44

**Tentative Ruling:**

9/1/2020

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For the reasons set forth below, the Motion is GRANTED, and the Settlement Agreement is APPROVED.

**Pleadings Filed and Reviewed**

1. Trustee's Motion to Approve Compromise with Syn-Care Wellness Center, Inc., Kimbrelly Didomenicantonio and Dominic Didomenicantonio [Doc. No. 44] (the "Motion")
2. Notice of Motion [Doc. No. 45]
3. Debtor's Declaration Re Brad D. Krasnoff, Chapter 7 Trustee's Motion to Approve Compromise with Syn-Care Wellness Center, Inc., Kimbrelly Didomenicantonio and Dominic Didomenicantonio [Doc. No. 47] (the "Opposition")
4. Trustee's Reply to the Motion [Doc. No. 48] (the "Reply")
5. Evidentiary Objections to Debtor's Declaration in Response to the Motion [Doc. No. 49]

**I. Facts and Summary of Pleadings**

Gregory Tardaguila (the "Debtor") commenced a voluntary chapter 7 petition on September 6, 2019 (the "Petition Date"). Brad D. Krasnoff (the "Trustee") accepted appointment as chapter 7 trustee at the outset of the case.

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**Background on the Syn-Care Claims**

On or about October 12, 2018, Syn-Care Wellness Center, Inc. ("Syn-Care"), Kimberly DiDomenicantonio ("Kimberly") and Dominic DiDomenicantonio ("Dominic," collectively with Syn-Care and Kimberly, the "Settling Parties") filed a lawsuit against the Debtor, bearing the title of *Syn-care Wellness Center, Inc., et al. v. Gregory Tardaguila, et al.*, Case No. 18STCV01047 pending in Los Angeles County Superior Court (the "Syn-Care Lawsuit") [**Note 1**]. On or about February 13, 2019, the Debtor responded by asserting a cross-complaint against the Settling Parties in the Syn-Care Lawsuit (the "Counterclaims"). The Debtor has repeatedly amended his commencement schedules, which reflect varying dollar amounts for the value of the Counterclaims, and the Debtor's claimed exemptions therein. Based on the most recent versions of his commencement schedules, the Debtor values the Counterclaims at \$3,000,000, in which he lists no claim of exemption. *See* Doc. Nos. 42, 43. According to the second amended *Schedule E/F* [Doc. No. 40], Kimberly holds an unsecured claim against the Debtor in the amount of \$600,000. The claims register reflects that the Debtor has unsecured and priority claims in the estimated amount of \$1,105,421.53. *See* Claims Register.

**The Motion**

On July 31, 2020, the Trustee filed the Motion [Doc. No. 44], moving for the approval of a settlement agreement between the estate and the Settling Parties (the "Settlement Agreement"). The material terms of the Settlement Agreement are as follows:

1. The Settling Parties agree to pay the Trustee the sum of \$35,000 (the "Compromise Sum"), upon the execution of the Settlement Agreement, until further order of the Court.
2. The Trustee shall release all claims against the Settling Parties in connection with both the Counterclaims and the Syn-Care Lawsuit.
3. The Settling Parties retain their rights to file a proof of claim against the estate for any amounts that could be recovered in connection with the Counterclaims and/or the Syn-Care Lawsuit.

*See* Declaration of Brad D. Krasnoff ("Krasnoff Decl"), Ex. 1. [**Note 2**]

In support of the Settlement Agreement, the Trustee makes the following

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arguments in accordance with the factors enumerated in *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986):

1. The likelihood of prevailing in the Syn-Care Lawsuit, and achieving an outcome that improves upon the Settlement Agreement, is highly uncertain. Having discussed the issue with Adam Braun, the Debtor's counsel in the Syn-Care Lawsuit, the Trustee believes that the estate would encounter significant difficulties in achieving a favorable result in state court. Additionally, Mr. Braun advised the Trustee that the Counterclaims are significantly overvalued, with a more realistic recovery being closer to a five-figure sum, if anything at all. *See* Krasnoff Decl., ¶ 5. Notably, Mr. Braun refused to consider the possibility of serving as the Trustee's special litigation counsel in the Syn-Care Lawsuit. Apart from the indefinite value of the Counterclaims, there is additional uncertainty resulting from anticipated legal expenses, delay, and the possibility of losing at the trial stage.
2. There is nothing to suggest that the estate will have any difficulty in collecting against the Settling Parties. In fact, the Settling Parties have already tendered the Compromise Sum to the Trustee.
3. Although the Syn-Care Lawsuit does not present complex issues, the Trustee questions the practicality of pursuing litigation. Based on the delay to find a special litigation counsel, and acknowledging anticipated legal costs, potential appeals, and adverse rulings, prosecution of the Counterclaims is unlikely to benefit creditors more than the Settlement Agreement.
4. Therefore, the paramount interests of creditors are better served by approval of the Settlement Agreement, which will immediately bring \$35,000 into the estate, without significant delay or expense.

**The Opposition**

On August 19, 2020, the Debtor submitted a declaration in opposition to the approval of the Settlement Agreement (the "Opposition"). The Debtor contends that

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the Settlement Agreement should be disapproved because the Compromise Sum (\$35,000) falls considerably below the Debtor's estimated value of the Counterclaims of \$3,000,000. In withdrawing his claimed exemption of the Counterclaims, the Debtor hopes to pay all administrative costs and allowed claims, and thereby "creating" a surplus estate. In support of the claim that the proposed Compromise Sum is unreasonable, the Debtor dedicates much of the Opposition detailing the underlying allegations in the Syn-Care Lawsuit. In summary, the Debtor's objection consists of a narrative about the formation of the parties' chiropractic practice, their business and personal relationships, and the DiDomenicantonios' purported fraudulent activities. For reasons further explained below, the Court will not consider the Debtor's specific allegations in deciding the instant matter.

**The Reply**

On August 26, 2020, the Trustee submitted a reply in response to the Opposition (the "Reply"), making the following principal representations, points, and arguments:

The Motion adequately discusses the *A & C Properties* factors, which militate in favor of the Settlement Agreement. The Debtor fails to offer a complete response against the Trustee's arguments, and instead focuses on offering his opinion on the likelihood of success in prosecuting the Counterclaims. The Debtor's view on the valuation of the Counterclaims is unrealistic and in conflict with the opinions expressed by his own attorney of record in the Syn-Care Lawsuit and with his original schedules [Note 3]. Where the Debtor's conjecture about the value of his case is based on a layperson's assessment, the Compromise Sum is supported by Mr. Braun's opinion, who, as Debtor's attorney, is more intimately familiar with the strengths and weaknesses of Debtor's case. Therefore, the Compromise Sum falls within the "range of reasonableness." Even if the Court were inclined to adopt the Debtor's position, bankruptcy courts are not expected or required to resolve disputed issues of fact and law in evaluating the adequacy of compromises under Rule 9019. *See United States v. Alaska Nat. Bank of the North (In re Walsh Constr., Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). Finally, the Debtor fails to consider the best interests of the estate and creditors, who will presumably have to shoulder the cost, delay, and risk in the adjudication of the Counterclaims. Nothing in the Opposition suggests that Debtor intends to bid on the claims, therefore, the Debtor proceeds under the assumption that the estate will finance litigation.

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## II. Findings of Fact and Conclusions of Law

Bankruptcy Rule 9019(a) permits the Court to approve a compromise or settlement. In the Ninth Circuit, courts consider the following factors in determining the fairness, reasonableness and adequacy of a proposed settlement agreement:

- (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;
- (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

*Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

"Each factor need not be treated in a vacuum; rather, the factors should be considered as a whole to determine whether the settlement compares favorably with the expected rewards of litigation." *In re Western Funding Inc.*, 550 B.R. 841, 851 (B.A.P. 9th Cir. 2016). Furthermore, "compromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (Bankr. D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983).

The Court finds that the Settlement Agreement is adequate, fair and reasonable, and in the best interest of the estate in accordance with the *A & C Properties* factors.

### 1. Likelihood of Success in Litigation

Here, the first factor weighs strongly in favor of the Settlement Agreement. Although the Syn-Care Lawsuit does not involve unusual or complex issues of fact or law, the parties conflicting positions are likely to prolong litigation, thereby substantially increasing legal costs and diminishing the net value of any monetary award. Because the parties' disputes involve their personal and business relationships, the Court anticipates litigation will likely require each side to incur significant discovery expenses, e.g. procuring percipient witness testimony and/or the production of financial documents. Readily securing such evidence is further complicated, given

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the passage of time and in light of the restrictions attendant with the COVID-19 pandemic. Further, even if discovery expenses are kept at a bare minimum, the record before the Court strongly indicates that the Debtor's assessment of the Counterclaims is vastly overvalued. Although the Debtor provides a detailed account of his allegations against the DiDomenicantonios, nothing in the Opposition casts doubt on Mr. Braun's valuation of the underlying case. Apart from considerable discovery costs, the possibility of protracted motion practice, adverse rulings, trial expenses, and appeals add further uncertainty on the Trustee's ability to secure a favorable outcome for the estate. For example, without having additional evidence on the strength of the DiDomenicantonios' claims and defenses, the Court cannot ignore the possibility of a mixed verdict at trial. Therefore, this factor weighs decisively in favor of the Settlement Agreement.

2. Difficulties in Collection

Because the Settling Parties have already tendered the Compromise Sum to the Trustee, the estate will have no difficulty in administering those assets to creditors upon approval of the Settlement Agreement. However, the same cannot be said if the estate is required to prosecute the Counterclaims. For the reasons set forth above, the estate's ability to recover anything close to a seven-figure award is doubtful. Based upon the foregoing, this factor supports approval of the Motion.

3. Complexity, Expense, Inconvenience and Delay of Litigation

The Court determines that obtaining a more favorable result by way of litigation is improbable and subject to prohibitive legal costs and delays. Continued litigation will undoubtedly be expensive and protracted. Furthermore, it is unlikely that the Debtor possesses any other assets that can be administered for the benefit of the estate. For this reason, the Settlement Agreement avoids unnecessary costs, delays, and uncertainties, while readily providing \$35,000 to the estate. Although the Debtor vigorously asserts that the Settlement Agreement vastly undervalues his state court case, prosecuting the Counterclaims would likely result in a "pyrrhic victory," even if the Trustee prevails, considering Mr. Braun's statements and the realities of administrative and legal costs. This factor weighs in favor of approving the Agreement.

4. Interests of Creditors

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For the various reasons explained above, the interests of creditors will be furthered by approval of the Settlement Agreement, which will provide the estate with \$35,000. Apart from the proceeds to be generated via the Settlement Agreement, the estate possesses little or no administrable assets. As such, the approval of the Settlement Agreement constitutes the most realistic prospect that creditors have in achieving recovery. The Debtor urges the Court to consider the underlying allegations against the DiDomenicantonios, but in so arguing, the Debtor ignores that the estate will have to finance his claims. As discussed above, prosecuting the Counterclaims is not without substantial risk and failure to obtain a favorable outcome expeditiously would likely result in administrative insolvency.

Additionally, the Debtor makes much of the fact that the Compromise Sum falls far below the true value of his claims against the DiDomenicantonios. Nevertheless, the Debtor's position is unpersuasive. The Bankruptcy Appellate Panel of the Ninth Circuit has recognized the ability of interested parties to bid on and purchase legal claims held by the estate, in the same manner that parties are able to purchase tangible estate assets. *See, e.g. In re Mickey Thompson Entm't Grp., Inc*, 292 B.R. 415, 420-21 (B.A.P. 9th Cir. 2003) ("[w]hen confronted with a motion to approve a settlement under Rule 9019(a), a bankruptcy court is obliged to consider, as part of the 'fair and equitable' analysis, whether any property of the estate that would be disposed of in connection with the settlement might draw a higher price through a competitive process and be the proper subject of a section 363 sale. Whether to impose formal sale procedures is ultimately a matter of discretion that depends upon the dynamics of the particular situation."). Accordingly, there is no evidence that at any point the Debtor proposed an alternative resolution to improve creditors' best interests. The Debtor, for example, could have chosen to extend an offer to purchase the estate's legal claims against the DiDomenicantonios for more than the settled amount. Any offers to purchase the estate's interest in the Counterclaims are now deemed untimely at this stage and would be subject to the Trustee's review and the Court's discretion. *See In re Morris*, No. BAP SC-15-1222-FJUKI, 2016 WL 1254357, at \*7 (B.A.P. 9th Cir. Mar. 29, 2016) (court had ample justification to reject eleventh hour offer to purchase estate's claims by debtor's insider, where proposal was untimely, unsupported, and not likely in good faith).

Accordingly, the Court rejects the Debtor's invitation to conduct a *de facto* mini-trial and overrules the Opposition. *See In re Pac. Gas & Elec. Co.*, 304 B.R. 395, 417 (Bankr. N.D. Cal. 2004) (rather than conducting "an exhaustive investigation" or a



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"mini-trial," courts evaluating 9019 settlements need only find that agreement was in good faith, reasonable, fair and equitable). [Note 4]. Therefore, this factor weighs in favor of the Settlement Agreement.

In sum, the Court determines that the Trustee has satisfied all of the *A & C Properties* factors, and therefore, the Settlement Agreement is approved.

### **III. Conclusion**

Based on the foregoing, the Motion is GRANTED, and the Settlement Agreement is APPROVED.

The Trustee is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The creditors' first names are used to avoid confusion. No disrespect is intended. At times, Dominic and Kimberly are referred jointly as the "DiDomenicantonios."

**Note 2:** Any conflict in the nomenclature contained in the Motion, this tentative ruling, and the Settlement Agreement shall be controlled pursuant to the terms of the Settlement Agreement.

**Note 3:** The Debtor's original *Schedule A/B* listed an unknown dollar value for the Counterclaims. *See* Doc. No. 1.

**Note 4:** In evaluating the adequacy of the Settlement Agreement, the Court declines to consider the Debtor's assertions on his underlying dispute with the DiDomenicantonios. Therefore, the Trustee's evidentiary objections concerning such allegations are moot. The Debtor's Opposition is overruled.

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**Party Information**

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang  
Andrew P Altholz

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Sonia Singh

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2:16-19233 Oak River Asset Management LLC

Chapter 11

#2.00 Hearing  
RE: [226] Motion For Order (I) Setting Hearing On Confirmation Of Plan Under Which There Are No Impaired Classes; And (II) Dispensing With A Disclosure Statement

Docket 226

**Tentative Ruling:**

9/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, Oak River's motion to dispense with the requirement to obtain approval of a Disclosure Statement is **GRANTED**, and Oak River's *Chapter 11 Plan* is **CONFIRMED**.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Order (I) Setting Hearing on Confirmation of Plan Under Which There Are No Impaired Classes; and (II) Dispensing with Disclosure Statement [Doc. No. 226]
- 2) Notice of Motion and Motion for Confirmation of Debtor's Chapter 11 Plan [Doc. Nos. 228 and 232] (the "Confirmation Motion")
- 3) Debtor's Chapter 11 Plan [Doc. No. 227] (the "Plan")
- 4) The Plan Administrator's Response to the Debtor's Chapter 11 Plan and Related Motions [Doc. No. 233]
- 5) Debtor's Reply to "The Plan Administrator's Response to the Debtor's Chapter 11 Plan and Related Motions" [Doc. No. 235]

**I. Facts and Summary of Pleadings**

Liberty Asset Management Corporation ("Liberty") commenced a voluntary Chapter 11 petition on March 21, 2016. Oak River Asset Management LLC ("Oak

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River") commenced a voluntary Chapter 11 petition on July 12, 2016. From March 21, 2016 to January 29, 2017, the Hon. Thomas B. Donovan presided over Liberty and Oak River's cases. On January 30, 2017, both cases were reassigned to the undersigned Judge.

On June 18, 2018, the Court entered an order in the Liberty case confirming the *First Amended Chapter 11 Plan of Liquidation Dated January 31, 2018* (the "Liberty Plan" and the order confirming the Liberty Plan, the "Liberty Confirmation Order"). Liberty Doc. No. 609, Ex. A (Liberty Plan) and Liberty Doc. No. 665 (Liberty Confirmation Order). The Liberty Plan appointed Bradley D. Sharp as the Plan Administrator responsible for liquidating the assets of Liberty's estate (the "Plan Administrator"). Among other things, the Liberty Plan provides that Liberty holds 100% of Oak River's equity. Consequently, the Liberty Plan provides that any surplus proceeds from Oak River's estate will be distributed to creditors of Liberty's estate.

Oak River's primary asset was its 50% interest in property located at 119 Furlong Lane, Bradbury, CA 91008 (the "Property"). On August 23, 2018, the Court granted Oak River's motion to sell the Property for \$6.9 million. Oak River Doc. No. 138. Subsequent to the Property's sale, the Oak River obtained Court approval of settlements with various entities asserting claims against the Property. Oak River Doc. Nos. 160 and 195. Oak River has made the payments under the Court-approved settlement agreements and has also paid undisputed claims against the Property. Proceeds from the Property's sale that remain to be distributed amount to \$1,034,640.45 (the "Estate Funds").

On August 5, 2020, Oak River filed a *Chapter 11 Plan* [Doc. No. 231] (the "Plan"). The Plan provides for payment in full of all remaining claims against Oak River from the Estate Funds, followed by the distribution of the remaining Estate Funds to Liberty, as Oak River's 100% equity owner. The aggregate amount of outstanding unsatisfied claims is approximately \$260,329.34, consisting of \$230,000 in administrative claims, \$29,293.17 in general unsecured claims, and a \$1,636.17 priority tax claim. The Plan's estimated distribution to Liberty is \$742,326.24.

Oak River moves for confirmation of the Plan (the "Confirmation Motion"), as well as for an order dispensing with the requirement of obtaining approval of a Disclosure Statement. Oak River asserts that a Disclosure Statement is unnecessary since all classes are unimpaired and therefore are deemed to accept the Plan.

The Plan Administrator does not oppose the request to waive the requirement for a Disclosure Statement. In response to the Confirmation Motion, the Plan Administrator requests certain minor modifications and clarifications to the Plan. Oak River is agreeable to all the Plan Administrator's requested modifications, except for

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the Plan Administrator's request that Oak River be required to obtain entry of a Final Decree by no later than December 31, 2020. Oak River states that it will use its best efforts to obtain a Final Decree by December 31, 2020, but opposes an order to that effect. Oak River points to the possibility of unexpected delays in completing matters necessary to consummate the Plan.

No opposition to confirmation of the Plan is on file.

## **II. Findings of Fact and Conclusions of Law**

### **A. Oak River is Not Required to Obtain Approval of a Disclosure Statement**

The purpose of a Disclosure Statement is to provide creditors with information adequate to enable them to make an informed judgment with respect to voting on the Plan. Here, all creditors are conclusively deemed to accept the Plan because all classes of claims under the Plan are unimpaired. § 1126(f). Because the Debtor is not required to solicit votes on the Plan, no purpose would be served by requiring the Debtor to obtain approval of a Disclosure Statement. *In re Victory Const. Co., Inc.*, 42 B.R. 145, 154 (Bankr. C.D. Cal. 1984) (stating that "since no class was impaired, no disclosure statement is required"). In addition, requiring Oak River to obtain approval of a Disclosure Statement would increase administrative expenses and reduce the ultimate recovery available to Liberty.

### **B. The Plan is Confirmed**

As set forth below, the Plan satisfies all the requirements of § 1129. The Court will confirm the Plan.

#### **SECTION 1129(A)(1)**

Section 1129(a)(1) requires that the "plan compl[y] with the applicable provisions of this title." According to the leading treatise, the "legislative history suggests that the applicable provisions are those governing the plan's internal structure and drafting: 'Paragraph (1) requires that the plan comply with the applicable provisions of chapter 11, such as section 1122 and 1123, governing classification and contents of a plan.'" *Collier on Bankruptcy* ¶ 1129.01[1] (16th rev'd ed.) (citing S. Rep. No. 989, 95th Cong., 2d Sess. 126 (1978)).

##### 1. Section 1122(a)

Section 1122(a) provides that "a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class." "A claim that is substantially similar to other claims

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may be classified separately from those claims, even though section 1122(a) does not say so expressly." *In re Rexford Props., LLC*, 558 B.R. 352, 361 (Bankr. C.D. Cal. 2016).

The Plan's classification structure complies with § 1122(a). Class 1 consists of allowed general unsecured claims and Class 2 consists of Liberty's equity interest.

2. Section 1122(b)

Section 1122(b) provides that "a plan may designate a separate class of claims consisting only of ever unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience."

The Plan does not contain any convenience classes. Section 1122(b) does not apply.

3. Section 1123(a)(1)

Section 1123(a)(1) requires that a plan "designate ... classes of claims, other than claims of a kind specified in section 507(a)(2) [administrative expense claims], 507(a)(3) [claims arising during the gap period in an involuntary case], or 507(a)(8) [priority tax claims], and classes of interest." There are no involuntary gap claims because this is a voluntary chapter 11 case. The Plan appropriately classifies administrative expense claims and priority tax claims. The Plan satisfies § 1123(a)(1).

4. Section 1123(a)(2)

Section 1123(a)(2) requires that the Plan "specify any class of claims or interests that is not impaired under the Plan." The Plan specifies that Classes 1 and 2 are not impaired. The Plan satisfies § 1123(a)(2).

5. Section 1123(a)(3)

Section 1123(a)(3) requires that the Plan "specify the treatment of any class of claims or interests that is impaired under the Plan." Section 1123(a)(3) does not apply because the Plan contains no impaired classes.

6. Section 1123(a)(4)

Section 1123(a)(4) requires that the Plan "provide the same treatment for each claim or interest of a particular class unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest." The Plan provides the same treatment to claims and interests of the same class. The Plan satisfies § 1123(a)(4).

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7. Section 1123(a)(5)

Section 1123(a)(5) requires that the Plan "provide adequate means for the plan's implementation." The Plan will be funded by the Estate Funds, which are sufficient to provide for all the distributions contemplated by the Plan. The Plan satisfies § 1123(a)(5).

8. Section 1123(a)(6)

Section 1123(a)(6) provides: "[A] plan shall provide for the inclusion in the charter of the debtor, if the debtor is a corporation ..., of a provision prohibiting the issuance of nonvoting equity securities, and providing, as to the several classes of securities possessing voting power, an appropriate distribution of such power among such classes, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for the election of directors representing such preferred class in the event of default in the payment of such dividends."

Because no securities are being issued under the Plan, § 1123(a)(6) does not apply.

9. Section 1123(a)(7)

Section 1123(a)(7) requires that the Plan's provisions with respect to the selection of officers and directors be consistent with public policy and the interests of creditors and equity security holders.

Oak River does not anticipate the need for active management after the Effective Date. To the extent necessary, Oak River's Chief Restructuring Officer (the "CRO") will supervise Oak River's post-Effective Date operations.

The Court finds the continued supervision of the CRO to be consistent with public policy and in the interests of creditors and equity security holders. Section 1123(a)(7) is satisfied.

10. Section 1123(b)

Section 1123(b) sets forth provisions that are permitted, but not required, in a plan. The Plan contains certain of § 1123(b)'s optional provisions. The Plan is consistent with § 1123(b).

**SECTION 1129(A)(2)**

Section 1129(a)(2) requires that the "proponent of the plan compl[y] with the

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applicable provisions of this title." "The principal purpose of Section 1129(a)(2) is to assure that the proponents have complied with the requirements of section 1125 in the solicitation of acceptances to the plan." *In re Texaco Inc.*, 84 B.R. 893, 906–07 (Bankr. S.D.N.Y. 1988). As discussed above, Oak River was not required to solicit acceptances of the Plan or file a Disclosure Statement under § 1125. Therefore, Oak River has satisfied the requirements of § 1129(a)(2).

**SECTION 1129(A)(3)**

Section 1129(a)(3) requires that the "plan has been proposed in good faith and not by any means forbidden by law." As one court has explained:

The term ‘good faith’ in the context of 11 U.S.C. § 1129(a)(3) is not statutorily defined but has been interpreted by case law as referring to a plan that ‘achieves a result consistent with the objectives and purposes of the Code.’ ‘The requisite good faith determination is based on the totality of the circumstances.’

*In re Melcher*, 329 B.R. 865, 876 (Bankr. N.D. Cal. 2005) (internal citations omitted).

Here, the Plan provides for payment in full of all allowed claims, as well as a distribution to equity. The Plan’s provisions are consistent with the purposes and objectives of the Bankruptcy Code. Section 1129(a)(3) is satisfied.

**SECTION 1129(A)(4)**

Section 1129(a)(4) requires that "[a]ny payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable." The Plan provides that all professional fees incurred prior to the Effective Date are subject to review by the Court. The plan satisfies § 1129(a)(4).

**SECTION 1129(A)(5)**

Section 1129(a)(5) requires that the Plan disclose "the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint Plan with the debtor, or a successor to the debtor under the Plan." Section 1129(a)(5)(A)



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(ii) requires that the appointment to or continuation in office of a director or officer be consistent with the interests of creditors, equity security holders, and public policy. Section 1129(a)(5)(B) requires the Plan proponent to disclose the identity of any insider to be employed by the reorganized debtor.

Oak River has disclosed that to the extent necessary, the CRO will supervise post-Effective Date operations. The Court finds that the continued supervision of the CRO is consistent with the interests of creditors, equity security holders, and public policy.

The Plan satisfies § 1129(a)(5).

**SECTION 1129(A)(6)**

Section 1129(a)(6), which requires that a governmental regulatory commission with jurisdiction over rates charged by a debtor approve any rate changes provided for in the plan, does not apply.

**SECTION 1129(A)(7)**

Section 1129(a)(7), known as the "best interests of creditors test," provides in relevant part: "With respect to each impaired class of claims or interests, each holder of a claim or interest of such class has accepted the plan; or will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date."

All classes of claims and interests are unimpaired and so are conclusively deemed to accept the Plan. Section 1129(a)(7) is satisfied.

**SECTION 1129(A)(8)**

Section 1129(a)(8) requires each class to accept the Plan, unless the class is not impaired. As noted, all classes of claims and interests are deemed to have accepted the Plan. Section 1129(a)(8) is satisfied.

**SECTION 1129(A)(9)**

Section 1129(a)(9) requires that holders of certain administrative and priority claims receive cash equal to the allowed claim amount of their claims on the effective date of the plan, unless the claimant agrees to different treatment.

The Plan provides for the payment of all allowed administrative claims and priority claims in full on the Effective Date. The Plan satisfies § 1129(a)(9).

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**SECTION 1129(A)(10)**

Section 1129(a)(10) requires that "[i]f a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider." Section 1129(a)(10) does not apply because no classes of claims are impaired under the Plan.

**SECTION 1129(A)(11)**

Section 1129(a)(11), known as the "feasibility requirement," requires the Court to find that "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan."

All payments contemplated by the Plan are to be made on the Effective Date from the Estate Funds. The Estate Funds are sufficient to make the payments required under the Plan. The Plan is feasible and satisfies § 1129(a)(11).

**SECTION 1129(A)(12)**

Section 1129(a)(12) requires that the Debtor pay all United States Trustee fees prior to confirmation or provide for payment of those fees on the effective date. The Plan provides for the payment in full of all UST Fees on or prior to the Effective Date. Section 1129(a)(12) is satisfied.

**SECTION 1129(A)(13)**

Section 1129(a)(13), which contains requirements pertaining to the payment of retirement benefits, does not apply.

**SECTION 1129(A)(14)**

Section 1129(a)(14), which contains requirements pertaining to the payment of domestic support obligations, does not apply.

**SECTION 1129(A)(15)**

Section 1129(a)(15), which imposes certain requirements upon individual debtors, does not apply.

**SECTION 1129(A)(16)**

Section 1129(a)(16) provides: "All transfers of property under the plan shall be made in accordance with any applicable provisions of nonbankruptcy

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law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust."

The Plan does not provide for the transfer of any property in contravention of applicable nonbankruptcy law. The Plan satisfies § 1129(a)(16).

**SECTION 1129(D)**

Section 1129(d) provides: "Notwithstanding any other provisions of this section, on request of a party in interest that is a governmental unit, the court may not confirm a Plan if the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933." No governmental unit has requested that the court not confirm the Plan on the grounds that the Plan's purpose is the avoidance of taxes. No securities are issued under the Plan. The Plan satisfies § 1129(d).

**C. The Court Will Require Oak River to Obtain a Final Decree By No Later than December 31, 2020, Subject to Extension for Good Cause Show**

The Plan Administrator requests that Oak River be required to obtain a Final Decree by no later than December 31, 2020. Oak River opposes the request, citing the possibility that consummating the Plan may take longer than anticipated.

The Court finds it appropriate to fix December 31, 2020 as the deadline for Oak River to obtain a Final Decree. The only tasks necessary to consummate the Plan are (1) the filing and determination of Administrative Expense Claims, (2) the distribution of the Estate Funds to Classes 1 and 2, and (3) the dissolution of Oak River. The December 31, 2020 deadline leaves Oak River ample time to complete these tasks. In the unlikely event that an unexpected delay arises, the deadline to obtain a Final Decree is subject to an extension for good cause shown.

In view of the December 31, 2020 deadline for Oak River to obtain a Final Decree, the Court does not find it necessary to set a Post-Confirmation Status Conference.

**III. Conclusion**

Based upon the foregoing, Oak River's motion to dispense with the requirement of obtaining approval of a Disclosure Statement is **GRANTED**, and the Plan is **CONFIRMED**.

Within seven days of the hearing, Oak River shall submit conforming orders incorporating this tentative ruling by reference.

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No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Oak River Asset Management LLC

Represented By

David B Golubchik

Jeffrey S Kwong

Eve H Karasik

Robert Thomas Bryson

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**#3.00** Hearing  
RE: [232] Motion for order confirming chapter 11 plan

Docket 228

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See Cal. No. 2, above, incorporated in full by reference.

<b>Party Information</b>
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**Debtor(s):**

Oak River Asset Management LLC

Represented By  
David B Golubchik  
Jeffrey S Kwong  
Eve H Karasik  
Robert Thomas Bryson

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**2:20-16475 Neumedicines, Inc.**

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**#4.00** HearingRE: [15] Motion to Use Cash Collateral Notice of Motion and Motion Approving Stipulation for Entry of Order Authorizing Use of Cash Collateral; Declaration of Timothy K. Gallaher

Docket 15

**Tentative Ruling:**

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**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Debtor is authorized to use cash collateral through and including September 30, 2020, in accordance with the terms of the Stipulation. In the event that the parties come to an agreement on the extended use of cash collateral, pursuant to paragraph 9 of the Stipulation, the Debtor shall submit a declaration so attesting by no later than **September 25, 2020**. Any further requests for the use of cash collateral, or post-petition financing, not contemplated in the Stipulation must be heard by no later than **September 29, 2020**.

**Pleadings Filed and Reviewed:**

- 1) Motion Approving Stipulation for Entry of Order Authorizing Use of Cash Collateral [Doc. No. 15] (the "Motion")
- 2) Statement Regarding Cash Collateral or Debtor in Possession Financing [Doc. No. 16]
- 3) July 2020 Monthly Operating Report [Doc. No. 18]
- 4) As of the preparation of this tentative ruling, no response or objection is on file

**I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, Neumedicines, Inc. (the "Debtor") commenced a voluntary chapter 11 petition on July 17, 2020 (the "Petition Date"). Founded at the University of Southern California in 2003, the Debtor is a biopharmaceutical clinical-

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stage company, which was formed to research and develop interleukin-12 (“IL-12”), a drug with demonstrated efficacy in treating cancer and acute radiation syndrome. While the Debtor’s business activities do not generate a constant revenue stream, its operations have produced numerous drug patents in the United States, Canada, Japan, and Europe. According to the Debtor, these patents have a value of at least \$20 million. Based on the estimate provided by Elliott Friedman (“Friedman”), the Debtor’s former president, and secured creditor, the Debtor is valued at \$110 million.

As a critical component of its continuing business operations, the Debtor owns and licenses its various drug patents related to IL-12, one of which includes HemaMax, an IL-12 drug at the phase III human trial stage. The Debtor’s business operations are substantially funded through two primary income avenues associated with the development of HemaMax. First, the Debtor receives grants and research contracts from both domestic and international government agencies. Previously, in 2008 and 2011, the Debtor received an estimated \$76 million in government funding from the Biological Advanced Research Development Agency (“BARDA”), a division of the Department of Health and Human Services (“HHS”). The BARDA funding, however, was terminated in 2017 as HHS shifted its focus to the research of other illnesses. Additionally, the Debtor anticipates a \$500,000 grant from the European Union in early 2021. Second, the Debtor has generated revenue through licensing, investment, and loans related to HemaMax. Notably, the Debtor entered into a licensing agreement with Taiwan-based Libo Pharma Corp. (“Libo”), which granted Libo a license to further HemaMax’s application on the treatment of diffuse large B-cell lymphoma.

Among other reasons, the Debtor’s bankruptcy was triggered by the decision to enter into substantial loan agreements to fund operations between 2018 and 2019, which resulted in the Debtor effectively doubling its existing debt burden from September 15, 2018 through June 14, 2019. *See* Application to Debtor’s Counsel [Doc. No. 6] at 6-7 (pages cited follow the ECF pagination at the top of the document). These events followed the financial hardship caused by the termination of BARDA funding in 2017. *Id.* at 6. Additionally, during his tenure as president, Friedman loaned operating revenue to the Debtor, which he suddenly ceased without prior notice in or around May 2019. *Id.* Following his removal as president, Friedman filed a complaint (the “Federal Court Action”) against the Debtor and the late Dr. Lena Basil, one of the Debtor’s original founders. The Federal Court Action was quickly settled for \$418,495. *Id.* at 7. The underlying settlement agreement provided

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Friedman with a promissory note secured by a blanket security interest in all of the Debtor's personal property and assets, which he sought to foreclose just prior to the bankruptcy filing. *Id.*

As of the Petition Date, all of the Debtor's assets are encumbered by secured claims in the total sum of \$702,970 as follows:

- Friedman—\$470,000
- Mao Qun International Investment LLC ("MQ") (together with Friedman the "Secured Creditors")—\$232,970

*See* Motion at 9. No other secured creditor is identified in the Debtor's commencement documents.

In filing the instant bankruptcy case, the Debtor intends to sell all of its assets, which include the various IL-12 drug patents. To achieve this objective, the Debtor is in the process of interviewing investment bankers to market and sell its assets. Until its assets are sold, the Debtor requests authorization to use cash collateral to continue funding business operations, pursuant to §362(c)(2). The Debtor cautions that any disruption in its operations would prove unduly prejudicial to the estate and creditor body. Here, the Debtor represents that the Secured Creditors have consented to the proposed use of cash collateral. Further, the proposed use of cash collateral is subject to the terms of a stipulation executed by Debtor and the Secured Creditors (the "Stipulation"). In accordance with the Stipulation, the use of cash collateral will terminate on the earlier date of the Budget end period at 5:00 p.m., Pacific Time, on September 30, 2020, or an "Event of Default," as defined in the Stipulation. Other material terms contained in the Stipulation, which is affixed to the Motion as Exhibit "A", are summarized below:

- The Debtor is authorized to use the cash collateral as set forth in the Budget [Note 1], which is attached to the Stipulation as Exhibit "1", subject to a variance of 15% in excess of the amounts provided therein.
- Any expenditures surpassing 15% will require written approval of the Secured Creditors.
- In exchange of the proposed cash collateral use, each Secured Creditor will be granted, effective as of the Petition Date, a Post-Petition Lien in all of the Debtor's personal property and assets to the extent of any cash collateral used, to the same extent, priority, and validity as the Secured Creditors' pre-petition



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- If such post-petition liens are insufficient to satisfy the Secured Creditors' claims, then each impaired Secured Creditor is entitled to receive an allowed claim under § 503(b), with super-priority, in accordance with § 507(b).
- Except for the fees payable to the United States Trustee and bankruptcy court charges, no other administrative claim shall be senior to or on parity with such claim under § 507(b).

*See* Motion at 5-6 (brief description of the Stipulation terms) [**Note 2**]. As of the preparation of this tentative ruling, no response or objection is on file.

## **II. Findings and Conclusions**

Section 363(c)(2) requires court authorization for the use of cash collateral unless "each entity that has an interest in such cash collateral consents." In the Ninth Circuit, satisfaction of Section 363(c)(2)(A) requires the "affirmative express consent" of the secured creditor; "implied consent," resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368-69 (9th Cir. 1987). Absent affirmative express consent, the Debtors "may not use" cash collateral absent the Court's determination that the use is "in accordance with the provisions" of Section 363—that is, that the secured creditor's interest in the cash collateral is adequately protected. Section 363(c)(2)(B); Section 363(e).

A secured creditor's interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365 (1988).

The Court finds the terms of the Stipulation to be acceptable. The Court determines that the terms and conditions set forth in the Stipulation adequately protect the Secured Creditors' claims, until the Debtor is able to sell its assets. Therefore, the Court is prepared to approve the Stipulation and authorize the use of cash collateral as proposed therein. However, the Court is concerned about the Debtor's ability to effectively market and sell its assets prior to the end of the budget period on September 30, 2020, which coincides with the projected exhaustion of the Debtor's

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operating revenues. *See* Motion, Ex. A at Ex. 1 (copy of the Budget). As of the date of this tentative ruling, the Debtor has not filed an application to employ an investment banker or a broker. Accordingly, based on the record before it, the court expects that the Debtor will conclude its search for an investment banker and submit a corresponding employment application quickly. If not, the court may find that the value assigned to the Debtor's assets is unsupported.

### **III. Conclusion**

For the reasons stated above, the Debtor is authorized to use cash collateral through and including September 30, 2020, in accordance with the terms of the Stipulation. In the event that the parties come to an agreement on the extended use of cash collateral, pursuant to paragraph 9 of the Stipulation, the Debtor shall submit a declaration so attesting by no later than **September 25, 2020**. Any further requests for the use of cash collateral, or post-petition financing, not contemplated in the Stipulation must be heard by no later than **September 29, 2020**.

The Debtor shall lodge an appropriate order within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Capitalized terms not defined herein shall have the same meaning as in the Motion.

**Note 2:** Any disparities in the language set forth in the Stipulation, the Motion, and this tentative will be governed by the terms of the Stipulation.

<b>Party Information</b>
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**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 2, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Neumedicines, Inc.**

Daniel J Weintraub  
James R Selth

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, September 2, 2020**

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10:00 AM

**2:20-15501 Chineseinvestors.com, Inc.**

**Chapter 11**

**#5.00** Hearing re [60] and [147] Motion to Supplement Emergency Motion of Debtor for an Order Authorizing the Debtor to Employ Additional Professionals Used in the Ordinary Course of Business.

fr. 8-19-20

Docket 0

**Tentative Ruling:**

9/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Debtor is authorized to retain Suiqing Wu as an ordinary course professional.

**Pleadings Filed and Reviewed:**

- 1) Declaration of Warren Wang in Support of Debtor's Supplemental Emergency Motion for an Order Authorizing Employment of Suiqing Wu as an Ordinary Course Professional [Doc. No. 155]
- 2) Previously filed relevant pleadings:
  - a) Motion to Supplement Emergency Motion of Debtor for an Order Authorizing the Debtor to Employ Additional Professionals Used in the Ordinary Course of Business [Doc. No. 60] (the "Motion")
  - b) Notice of Opposition and Request for a Hearing [filed by the Official Committee of Unsecured Creditors] [Doc. No. 109]
  - c) Notice of Hearing on Debtor's Motion to Supplement Emergency Motion of Debtor for an Order Authorizing the Debtor to Employ Additional Professionals Used in the Ordinary Course of Business [Doc. No. 121]

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Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT... Chineseinvestors.com, Inc.**

**Chapter 11**

- d) Debtor's Reply to the Committee's Opposition to the Debtor's Motion to Supplement Emergency Motion of Debtor for an Order Authorizing the Debtor to Employ Additional Professionals Used in the Ordinary Course of Business [Doc. No. 127]

### **I. Facts and Summary of Pleadings**

ChineseInvestors.com, Inc. (the "Debtor") filed a voluntary Chapter 11 petition on June 19, 2020 (the "Petition Date"). The Debtor is a financial information web portal that offers news and information regarding financial markets in Chinese. The Debtor also provides investor relations services for companies requiring Mandarin language support, which includes translating client releases into English from Mandarin or vice versa, increasing awareness of clients and their stock, and helping clients move from the pink sheets to more established public securities exchanges.

On July 7, 2020, the Court granted the Debtor's first-day motion for authorization to retain and pay professionals employed in the ordinary course of business (the "OCPs"). *See* Doc. Nos. 3 (the "OCP Motion") and 44 (the "OCP Order"). The Court found that the OCPs that the Debtor sought to employ performed services that would be necessary regardless of whether a bankruptcy petition had been filed; that the OCPs would not play a significant role in the administration of the estate; and that employment of the OCPs was authorized under § 327(b). The OCP Order authorized the Debtor to retain and compensate OCPs in accordance with the following procedures:

- 1) Within forty-five days after service of an order granting the OCP Motion, each ordinary course professional shall file a declaration establishing that they are a disinterested party within the meaning of Bankruptcy Rule 2014(a) (the "Disinterestedness Declaration"). The Disinterestedness Declaration shall be served upon parties entitled to notice; such parties shall have fourteen days to object to the retention of the ordinary course professional. If no objection is timely filed, the employment of the ordinary course professional shall be deemed approved without further order of the Court.
- 2) While the case is pending, the fees of each ordinary course professional shall not exceed \$10,800 per month on average over a rolling three-month period (the "OCP Cap"). To the extent that fees exceed the OCP Cap, the ordinary course professional shall file a notice and invoice setting forth the services rendered and fees incurred (a "Notice of Excess Fees"). Interested parties shall have fourteen days to object to the Notice of Excess Fees. If no objection is

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**Chineseinvestors.com, Inc.**

**Chapter 11**

timely filed, the excess fees shall be deemed approve, and the ordinary course professional may be paid 100% of its fees and expenses without the need to file a formal fee application.

OCP Order at ¶ 2.

On August 27, 2020, the Court granted the Debtor's motion for authorization to retain additional OCPs. *See* Doc. No. 160. The Court set this continued hearing to provide the Debtor the opportunity to submit further evidence in support of its request to retain Suiqing Wu, an accountant in the China office, as an OCP. No opposition to the retention of Suiqing Wu as an OCP is on file.

## **II. Findings of Fact and Conclusions of Law**

Having reviewed the *Declaration of Warren Wang in Support of Debtor's Supplemental Emergency Motion for an Order Authorizing Employment of Suiqing Wu as an Ordinary Course Professional* [Doc. No. 155] (the "Wu Decl."), the Court finds that Suiqing Wu performs services that do not pertain to the administration of the estate and that would be necessary regardless of whether the Debtor had sought bankruptcy protection. Therefore, Suiqing Wu may be retained and compensated as an OCP.

The Court notes that much of the Wu Decl. is directed toward whether the Debtor should be allowed to continue to use WeChat Pay as part of its cash management system. The Debtor states that it intends to file a renewed motion requesting authorization to use WeChat Pay. *See* Wu Decl. at ¶ 14. The Court will consider the portions of the Wu Decl. pertaining to WeChat Pay once the renewed motion is filed, but such issues are not relevant to the instant Motion.

Within seven days of the hearing, the Debtor shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

**CONT... Chineseinvestors.com, Inc.**

**Chapter 11**

**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 2, 2020**

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11:00 AM

**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

**#100.00 APPLICANT: Trustee: David M Goodrich**

Hearing re [168] & [169] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

9/1/2020

**Proposed tentative (in Law Clerk Notes):**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payments, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$76,512.16 [see Doc. No. 187]

Total Expenses: \$184.10 [see *id.*]

FTB: \$10,845.70

Court Charges: \$350

UST Fees: \$650

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should



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**CONT... CRESTALLIANCE, LLC**

**Chapter 7**

an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The Trustee shall submit a conforming order within seven days of the hearing.

<b>Party Information</b>
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**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

**#101.00 APPLICANT: Attorney for Trustee: Weiland, Golden & Goodrich, LLP**

Hearing re [168] & [169] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

9/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

**Fees:** \$10,365 approved

**Expenses:** \$116.19 approved

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

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**CONT... CRESTALLIANCE, LLC**

**Chapter 7**

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

**#102.00 Charges, U.S. Bankruptcy Court**

Hearing re [168] & [169] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

9/1/2020

See Cal. No. 100, incorporated in full by reference.

**Party Information**

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
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**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

**#103.00 Fees, United States Trustee**

Hearing re [168] & [169] Trustee's Final Report and Applications for  
Compensation

Docket 0

**Tentative Ruling:**

9/1/2020

See Cal. No. 100, incorporated in full by reference.

**Party Information**

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

**#104.00 APPLICANT: Accountant for Trustee (Other firm): LEA Accountancy, LLP**

Hearing re [168] & [169] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

9/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

**Fees:** \$20,266 approved

**Expenses:** \$535.96 approved

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

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**CONT... CRESTALLIANCE, LLC**

**Chapter 7**

**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
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**2:17-24396 CRESTALLIANCE, LLC**

**Chapter 7**

**#105.00** Other Chapter 7 Administrative Expenses - Franchise Tax Board (Administrative)

Hearing re [168] & [169] Trustee's Final Report and Applications for  
Compensation

Docket 0

**Tentative Ruling:**

9/1/2020

See Cal. No. 100, incorporated in full by reference.

<b>Party Information</b>
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**Debtor(s):**

CRESTALLIANCE, LLC

Represented By  
Matthew D. Resnik

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Beth Gaschen



**United States Bankruptcy Court  
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**Wednesday, September 2, 2020**

**Hearing Room 1568**

11:00 AM

**2:20-10987 Steve Lewis**

**Chapter 7**

Adv#: 2:20-01114 LANGLOIS FAMILY LAW APC v. LEWIS

**#106.00** HearingRE: [36] Motion to Dismiss Adversary Proceeding

Docket 36

**Tentative Ruling:**

9/1/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion to Dismiss is **DENIED**.

**Pleadings Filed and Reviewed:**

- 1) First Amended Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. § 727(a)(4) [Doc. No. 26]
- 2) Motion to Dismiss Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(a)(4) Pursuant to FRBP 12(b)(6) [Doc. No. 36] (the "Motion")
  - a) Notice of Motion [Doc. No. 37]
  - b) Request for Judicial Notice in Support of Motion [Doc. No. 38]
- 3) Opposition to Motion to Dismiss Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(a)(4) Pursuant to FRBP 12(b)(6) [Doc. No. 42]
- 4) Reply to Opposition by Langlois Family Law, APC to Motion to Dismiss Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(a)(4) Pursuant to FRBP 12(b)(6) [Doc. No. 43]

**I. Facts and Summary of Pleadings**

In December 2019, Langlois Family Law, APC ("Plaintiff") obtained a judgment in the Los Angeles Superior Court against Steve Lewis ("Defendant") in the amount of \$152,540.75 (the "State Court Judgment"). The State Court Judgment is based upon Defendant's failure to pay Plaintiff for legal services that Plaintiff provided to Defendant in a marital dissolution proceeding.

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Los Angeles  
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Steve Lewis

Chapter 7

Defendant filed a voluntary Chapter 7 petition on January 29, 2020 (the "Petition Date"). On May 1, 2020, Plaintiff filed a *Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. § 727(a)(4)* [Doc. No. 1] (the "Complaint"). On July 15, 2020, the Court dismissed the Complaint, but gave Plaintiff leave to amend. On July 20, 2020, Plaintiff filed the operative *First Amended Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. § 727(a)(4)* [Doc. No. 26] (the "FAC"), which alleges that Defendant should be denied a discharge for knowingly and fraudulently making false oaths and accounts on his bankruptcy schedules.

**Summary of the FAC's Allegations**

The material allegations of the FAC may be summarized as follows:

Commencing on January 13, 2016, Plaintiff represented Defendant in a contested marital dissolution proceeding. During the dissolution proceeding, Defendant made representations to Plaintiff regarding his financial history, personal and business financial practices, assets, liabilities, and general financial condition. Defendant's representations to Plaintiff are inconsistent with the statements Defendant made in his bankruptcy schedules, as follows:

<b>Representation on Schedules</b>	<b>Representation to Plaintiff</b>
Defendant owns a contingent 15% interest in the net profit of CORE Real Estate Group, Inc. ("CORE") with respect to CORE's 2019 earnings.	Defendant is the controlling shareholder of CORE and a W-2 employee of CORE.
Defendant's income is \$25,000/month.	Defendant's income is between \$30,000 to \$40,000 per month. Defendant has unrestricted access to CORE's books and records, and uses that access to understate his income when it is in his interest to do so.

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Defendant receives no bonus income.	Defendant's bonus income ranges from \$46,000 to \$64,000 annually. On 1/31/2016, Defendant represented to Plaintiff that his bonus income was \$5,112/month. On 2/15/2017, Defendant represented to Plaintiff that his bonus income was \$4,895/month. On 3/26/2018, Defendant represented to Plaintiff that his bonus income was \$5,344/month.
Defendant receives no real estate commission income.	Defendant diverts and misdirects his real estate commissions to other real estate agents at his employer, with the understanding that the other agents will later return the misdirected commission to the Defendant.
Defendant's unreimbursed business entertainment expenses are \$465.95/month.	On 1/31/2016, 6/26/2016, 11/21/2016, 2/1/2017, 2/15/2017, 3/16/2017, 8/30/2017, and 3/26/2018, Defendant represented to Plaintiff that he had no unreimbursed business expenses. Defendant manipulates the amount of his monthly unreimbursed business expenses as needed and regardless of the truth. When it is in his interest to do so, Defendant falsely discloses unreimbursed business expenses, with the understanding that his employer will later reimburse him for the expenses.
Defendant's out-of-pocket medical and dental expenses are \$989/month, and Defendant's dental insurance expense is \$112.11/month.	On 2/15/2017, 8/30/2017, and 3/26/2018, Defendant represented to Plaintiff that his out-of-pocket medical expenses were \$368/month.
Defendant's expenses for entertainment, clubs, recreation, newspapers, magazines, and books are \$791.54/month.	On 2/15/2017, Defendant represented to Plaintiff that his expenses for entertainment, gifts, and vacations were \$100/month. On 8/30/2017 and 3/26/2018, Defendant represented to Plaintiff that his expenses for entertainment, gifts, and vacations were \$150/month.
Defendant's monthly disposable income, for purposes of the Chapter 7 means test, is \$5,374.10	Defendant's monthly disposable income for means test purposes is at least \$20,000

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CONT... Steve Lewis

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Based upon the foregoing allegations, Plaintiff contends that Defendant's discharge should be denied, for knowingly and fraudulently making a false oath or account, pursuant to § 727(a)(4).

**Summary of Papers Filed in Connection with the Motion to Dismiss**

Defendant moves to dismiss the FAC, for failure to state a claim upon which relief can be granted, pursuant to Civil Rule 12(b)(6). Defendant makes the following arguments in support of the Motion:

- 1) The FAC's allegation that Defendant made misrepresentations on his schedules is nothing more than speculation. Plaintiff alleges that he last communicated with Defendant in March 2018, approximately 21 months prior to the Petition Date. Therefore, Plaintiff could not have known Defendant's financial condition as of the Petition Date. The FAC's allegations are not based upon sources which would provide an accurate picture of Defendant's financial condition on the Petition Date, such as tax returns or a Rule 2004 examination.
- 2) The FAC's allegations of fraud are not pleaded with particularity, as required by Civil Rule 9.
- 3) The FAC's allegations are vague and ambiguous. If the Motion to Dismiss is denied, the Court should require a more definite statement pursuant to Civil Rule 12(e).
- 4) The FAC's allegations are improperly based upon information that is subject to the attorney-client privilege, which cannot be waived.

In opposition to the Motion, Plaintiff asserts that the FAC's allegations are pleaded with sufficient specificity. With respect to Defendant's argument that the FAC is improperly based upon information subject to the attorney-client privilege, Plaintiff states that Defendant has failed to state how or why the issue of the privilege is relevant to the Motion.

In reply to Plaintiff's opposition, Defendant reiterates the contention that the FAC's allegations are speculative because they are based upon information that Plaintiff obtained 21 months prior to the Petition Date.

**II. Findings and Conclusions**

"To survive a motion to dismiss, a complaint must contain sufficient factual

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**Chapter 7**

matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’ A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citations omitted). To state a plausible claim for relief, a complaint must satisfy two working principles:

First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitations of the elements of a cause of action, supported by mere conclusory statements, do not suffice.... Second, only a complaint that states a plausible claim for relief survives a motion to dismiss. Determining whether a complaint states a plausible claim for relief will ... be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not “show[n]”—“that the pleader is entitled to relief.”

*Id.* (citing Civil Rule 8(a)(2)).

Although the pleading standard Civil Rule 8 announces “does not require ‘detailed factual allegations,’ ... it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.... A pleading that offers ‘labels and conclusions’ or a ‘formulaic recitation of the elements of a cause of action will not do.’ Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

**A. The FAC States a Claim Under § 727(a)(4)**

Section 727(a)(4)(A) provides that a debtor is not entitled to a discharge if “the debtor knowingly and fraudulently, in or in connection with the case made a false oath or account ....”

To state a claim under § 727(a)(4)(A), a complaint must contain factual allegations showing that:

- 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.

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**Chapter 7**

*Retz v. Samson (In re Retz)*, 606 F.3d 1189, 1197 (9th Cir. 2010). "A false oath may involve a false statement or omission in the debtor's schedules." *Fogal Legware of Switzerland, Inc. v. Wills (In re Wills)*, 243 B.R. 58, 62 (B.A.P. 9th Cir. 1999).

"A fact is material 'if it bears a relationship to the debtor's business transactions or estate, or concerns the discovery of assets, business dealings, or the existence and disposition of the debtor's property.' An omission or misstatement that 'detrimentally affects administration of the estate is material.'" *Retz*, 606 F.3d at 1198 (internal citations omitted). A false statement is made "knowingly" if the debtor "acts deliberately and consciously." *Id.* A false statement is made "fraudulently" if the debtor makes the statement "with the intention and purpose of deceiving creditors." *Id.* "Reckless indifference or disregard for the truth may be circumstantial evidence of intent, but it is not sufficient, alone, to constitute fraudulent intent." *Khalil v. Developers Sur. & Indem. Co.*, 379 B.R. 163, 172 (B.A.P. 9th Cir. 2007).

Fraud is an element of a claim brought forth under § 727(a)(4)(A); therefore, a plaintiff must satisfy the heightened pleading standard stated in Civil Rule 9(b). *In re Eden*, 584 B.R. 795, 806 (Bankr. N.D. Ga. 2018); *see Hunt v. Steffensen (In re Steffensen)*, 511 B.R. 149, 160 (Bankr. D. Utah 2014) ("because one element of a § 727(a)(4) claim is fraudulent intent, the Plaintiff's complaint must meet the particularity requirements of Rule 9(b)"). To plead fraud with particularity, a plaintiff must identify "the time, place, and contents of the false representation, the identity of the party making the false statements and the consequences thereof." *In re Steffensen*, 511 B.R. at 160 (internal quotes omitted). Civil Rule 9(b) also requires that the plaintiff allege facts "expla[ining]...why the disputed statement was untrue or misleading when made." *Yourish v. California Amplifier*, 191 F.3d 983, 993 (9th Cir. 1999).

Defendant argues that the FAC's allegation that Defendant misrepresented his financial condition on his bankruptcy schedules is not plausible. Defendant emphasizes the 21-month gap between the time that Plaintiff allegedly acquired information regarding Defendant's financial condition and the Petition Date.

The FAC's allegations have "facial plausibility" within the meaning of *Iqbal*. The FAC alleges that Plaintiff acquired detailed knowledge of Defendant's financial condition while representing him for two years in a contested marital dissolution proceeding. During the course of this representation, the FAC alleges, Plaintiff learned that Defendant routinely employs a variety of strategies to understate his income and overstate his expenses. These strategies include (1) using his control of CORE's books and records to under-report his income; (2) falsely reporting reimbursed business expenses as non-reimbursed expenses; (3) concealing real estate

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commission income by conspiring with other employees; and (4) failing to report business income. The FAC alleges that Defendant employed these same tactics to misrepresent his income and expenses on his bankruptcy schedules.

These detailed allegations are not the “[t]hreadbare recitations of the elements of a cause of action” or the “mere conclusory statements” condemned in *Iqbal*. See *Iqbal*, 556 U.S. at 678. They paint a comprehensive picture of the alleged wrongdoing that “allow[s] the court to draw the reasonable inference” that Defendant knowingly and fraudulently made materially false representations on his bankruptcy schedules. See *Iqbal*, 556 U.S. at 678; *Retz*, 606 F.3d at 1197.

Of course, the possibility that Defendant’s financial condition could have deteriorated after his professional relationship with Plaintiff came to an end cannot be ruled out. But to survive a motion to dismiss, it is not necessary for a complaint to conclusively rule out all possible sets of circumstances that could exculpate the defendant. A complaint is required only to plead specific facts supporting a plausible entitlement to relief. The FAC has cleared that hurdle.

The FAC’s allegations of fraud are also pleaded with the particularity required by Civil Rule 9. The FAC identifies the specific representations on the schedules that are alleged to be false. It alleges that as a result of these representations, Defendant will be granted a discharge for which he is not eligible. In sum, the FAC alleges “the time, place, and contents of the false representation, the identity of the party making the false statements and the consequences thereof.” *Steffensen*, 511 B.R. at 160 (internal quotes omitted).

Defendant contends that the FAC is based upon confidential information protected by the attorney/client privilege. However, Defendant cites no authority for the proposition that a complaint must be dismissed if its allegations are based upon information that the Plaintiff acquired during the course of an attorney/client relationship. The Court declines to dismiss the FAC on this basis. This ruling is without prejudice to Defendant’s ability to assert evidentiary or other objections based upon the attorney/client privilege at an appropriate time.

**B. Defendant’s Alternative Request for a More Definite Statement is Denied**

Defendant’s alternative request for a more definite statement under Civil Rule 12(e) is denied. A more definite statement may be ordered where the pleading “is so vague or ambiguous that the party cannot reasonably prepare a response.” Civil Rule 12(e). Here, the FAC contains detailed claims regarding alleged inaccuracies on Defendant’s schedules. See, e.g., FAC at ¶¶ 15(c) (alleging that Schedule I understates monthly income), 15(g) (alleging that line 21 of Schedule J overstates

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monthly business expenses); 15(h) (alleging that lines 11 and 15d of Schedule J overstate monthly healthcare expenses); 15(i) (alleging that line 13 of Schedule J overstates monthly entertainment expenses). The FAC also contains detailed claims regarding Defendant's alleged practice of manipulating the books and records of his employer to hide income and conspiring with other employees to conceal commissions. *See* FAC at ¶¶ 12(a)–(d). These allegations are sufficiently detailed to enable Defendant to answer the FAC.

**III. Conclusion**

Based upon the foregoing, the Motion is **DENIED**. Defendant shall answer the FAC by no later than **September 16, 2020**.

Within seven days of the hearing, Defendant shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Steve Lewis

Represented By  
Allan D Sarver

**Defendant(s):**

STEVE LEWIS

Represented By  
Allan D Sarver

**Plaintiff(s):**

LANGLOIS FAMILY LAW APC

Represented By  
Ray B Bowen Jr



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**Trustee(s):**

Elissa Miller (TR)

Pro Se

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**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

Adv#: 2:16-01374 Official Unsecured Creditors Committee for Liberty v. Ho et al

**#1.00** Status conference re Status Conference to monitor the status of the criminal action against Kirk and Gao

fr. 7-9-19; 10-15-19; 12-10-19; 2-11-20; 3-11-20

Docket 129

**Tentative Ruling:**

9/3/2020

Order entered. Status conference **CONTINUED to December 15, 2020 at 10:00 a.m.**

**Party Information**

**Debtor(s):**

Liberty Asset Management

Represented By  
David B Golubchik  
Jeffrey S Kwong  
John-Patrick M Fritz  
Eve H Karasik  
Sandford L. Frey  
Raphael Cung

**Defendant(s):**

Tsai Luan Ho

Represented By  
James Andrew Hinds Jr  
Paul R Shankman  
Rachel M Sposato

Benjamin Kirk

Pro Se

**Plaintiff(s):**

Official Unsecured Creditors

Represented By  
Jeremy V Richards  
Gail S Greenwood

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**CONT... Liberty Asset Management Corporation**

**Chapter 11**

Bradley D. Sharp

Represented By  
Gail S Greenwood

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**2:20-11316 Jonathan Andrew Arid**

**Chapter 7**

**#2.00** HearingRE: [39] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Ford F150, VIN: 1FTEW1EGXJFA44845 . (Ith, Sheryl)

Docket 39

**Tentative Ruling:**

9/3/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

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**CONT... Jonathan Andrew Arid Chapter 7**

to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Jonathan Andrew Arid

Represented By  
Richard G Heston

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

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**2:20-16110 Stanley LaVern Morse, II**

**Chapter 7**

**#3.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 BMW 5 Series 530i Sedan 4D . (Johnson, Marjorie)

Docket 10

**Tentative Ruling:**

9/3/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

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to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Stanley LaVern Morse II

Pro Se

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

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2:05-40904 Jack Moldovan

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- #1.00 Hearing  
RE: [29] Motion to Abandon Motion for order: (1) requiring trustee to abandon asset (2) declaring that an asset is not part of the estate; and (3) declaring that an asset is exempt. Douglas)

Docket 29

**Tentative Ruling:**

9/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion to Compel Abandonment is GRANTED.

**Pleadings Filed and Reviewed**

1. Debtor's Motion for Order (1) Requiring Trustee to Abandon Asset; (2) Declaring That an Asset is Not Part of the Estate; and (3) Declaring That an Asset is Exempt ("Motion to Compel Abandonment") [Doc. No. 29]
2. Notice of Hearing Filed by Debtor Jack Moldovan [Doc. No. 30]
3. As of the preparation of this tentative ruling, no opposition is on file

**I. Facts and Summary of Pleadings**

Jack Moldovan (the "Debtor") filed this voluntary chapter 7 case on December 10, 2005 (the "Petition Date"). On January 4, 2006, the Chapter 7 Trustee, James L. Brown (the "Trustee") filed a Report of No Assets. On April 4, 2012, the Debtor was granted a discharge.

The Debtor now moves, pursuant to § 554(b), for an order compelling the Trustee to abandon the estate's interest in a 2017 settlement from GlaxoSmithKline ("GSK")



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in the amount of \$17,343.40, which is currently being held by the Settlement Administrator (the "Settlement").

Between 2002 and 2004, the Debtor took the diabetic drug Avandia. In November of 2005, one month after the Debtor filed his chapter 7 petition, he suffered a heart attack. The Debtor claims he was unaware that the heart attack could have been connected to his use of Avandia. In 2009, the Debtor saw television advertisements discussing a potential link between the use of Avandia and heart attacks. The Debtor then proceeded to retain the Houston firm of Bailey Cowan Heckaman PLLC (the "Bailey Firm") in order to pursue a product liability lawsuit against GSK. In 2017, the Debtor became entitled to the Settlement.

The debtor asserts that, pursuant to §554(b), the Settlement is of inconsequential value to the estate. The Debtor's argument is twofold: first, that the Settlement is not property of the estate because the Debtor's right to receive the Settlement did not exist at the time he filed the petition; and, second, the Settlement is exempt under California Code of Civil Procedure ("CCP") §§ 703.140(b)(5) and (b)(11)(D).

The Debtor claims that the Bailey Firm attempted to contact the Trustee to obtain his approval so that the Bailey Firm could pay the Debtor the Settlement, but was unable to get in contact with him. In addition, the Debtor claims that the Bailey Firm contacted the Office of the U.S. Trustee, but also could not get in contact with them.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings of Fact and Conclusions of Law**

11 U.S.C. § 554(b) states:

On request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.

11 U.S.C. § 554(b).

First, the Debtor argues that, because he was not aware that he was entitled to the Settlement on the Petition Date, the Settlement is not part of the estate. Courts have

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held that a debtor's lack of subjective knowledge of a claim does not prevent that claim from becoming a part of the debtor's estate. *See In re Carroll*, 586 B.R. 775, 782-783 (Bankr. E.D. Cal. 2018) (finding that, "whether she realized it or whether she did not," the debtor had a prepetition claim when she had a medical procedure before filing her petition that later gave rise to a products liability case). As such, the fact that Debtor learned of his potential claim against GSK post-petition is not dispositive to the underlying issue.

The commencement of the Debtor's case created an estate comprised of all "property, wherever located and by whomever held [which includes] all legal or equitable interests of the debtor in property as of the commencement of the case." *See* 11 U.S.C. § 541(a). Causes of action belonging to the debtor at the outset of a bankruptcy case fall under the definition of estate property. *See Ozark Rest. Equip. Co. v. Anderson (In re Ozark Rest. Equip. Co.)*, 816 F.2d 1222, 1225 (8th Cir. 1987) (internal citation omitted). Courts in the Ninth Circuit and others, in applying this section, have found that legal interests constitute estate property where all material elements of a cause of action have occurred as of the petition date. *See In re Carroll*, 586 B.R. 775, 782 (Bankr. E.D. Cal. 2018) ("A legal interest that exists at the commencement of a case is one in which all of the elements for the cause of action are present"); *see also Sierra Switchboard Co. v. Westinghouse Elec. Corp.*, 789 F.2d 705, 709 (9th Cir. 1986). Based on the limited information supplied by the Debtor, it is unclear whether the Debtor's claim against GSK had accrued as of the Petition Date. Therefore, the Court is not in a position to find that the Settlement was excluded from the estate upon case commencement.

Second, the Debtor argues that even if the Settlement was part of the estate on the Petition Date, it would have been exempt under CCP § 703(b)(11)(D). On the Petition Date, CCP § 703(b)(11)(D) would have allowed for a "payment, not to exceed seventeen thousand four hundred twenty-five dollars (\$17,425), on account of personal bodily injury . . . of the debtor." CCP § 703(b)(11)(D), ch. 379, Stat. 2003 (A.B. 182). The Settlement is in the amount of \$17,343.40. Assuming that the Debtor's claim against GSK constitutes an asset of the estate, the Debtor would have been entitled to exempt the entirety of the Settlement.

In addition, Local Bankruptcy Rule ("LBR") 9013-1(f)(3) reads:

In a Response to a motion filed in a contested matter pursuant to FRBP 9014, the

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responding party must raise in that Response any objection or challenge to the bankruptcy court's authority to enter a final order on the underlying motion. The responding party must cite relevant authority and provide evidence in support of its position. The failure of the responding party to raise its objection or challenge in a Response will be deemed consent to the bankruptcy court's authority to enter a final order on the underlying motion.

LBR 9013-1(f)(3). As of the preparation of this tentative ruling, no opposition is on file. Therefore, the Court deems the failure of any interested party to lodge an objection against the Motion as consent to the relief requested by the Debtor.

### **III. Conclusion**

Based upon the foregoing, the Motion to Compel Abandonment is GRANTED.

The Debtor is directed to lodge a proposed order, incorporating this tentative ruling, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Jack Moldovan

Represented By  
Andrew Edward Smyth  
Douglas A Crowder

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**Trustee(s):**

James L Brown (TR)

Pro Se

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**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

- #2.00** Show Cause Hearing  
[63] Defendant shall appear and show cause, if any there be, why Defendant's Answer should not be stricken and why default judgment should not be entered in favor of Plaintiff. See

Docket 1

**Tentative Ruling:**

9/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Court will strike Defendant's Answer and enter Defendant's default.

**Pleadings Filed and Reviewed:**

- 1) Order: (1) Requiring Defendant to Appear and Show Cause Why Defendant's Answer Should Not Be Stricken and Why Default Judgment Should Not Be Entered in Favor of Plaintiff and (2) Vacating Pretrial Conference and Trial Dates [Doc. No. 63] (the "OSC")
  - a) Bankruptcy Noticing Center Certificate of Notice [Doc. No. 67]
  - b) Plaintiff's Notice of Motion and Motion in Limine No. 1: To Preclude Defendant from Introducing Exhibits and/or Witnesses at Trial [Doc. No. 60]
- 2) Plaintiffs' Update to the Court [Doc. No. 68]

**I. Facts and Summary of Pleadings**

On August 3, 2020, the Court issued an *Order: (1) Requiring Defendant to Appear and Show Cause Why Defendant's Answer Should Not Be Stricken and Why Default Judgment Should Not Be Entered in Favor of Plaintiff and (2) Vacating Pretrial Conference and Trial Dates* [Doc. No. 63] (the "OSC"). Issuance of the OSC

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was based upon Defendant's failure to fulfill any of his obligations in connection with the Pretrial Conference. Specifically, Defendant (1) failed to cooperate with Plaintiff in the preparation of a proposed Joint Pretrial Stipulation, even after Plaintiff served a copy of the proposed Pretrial Stipulation upon Defendant by overnight courier, attempted to contact Defendant by telephone, and attempted to contact Defendant by e-mail; (2) failed to respond to Plaintiff's attempts to meet and confer regarding the Pretrial Stipulation; and (3) failed to provide Plaintiff with trial exhibits or a list of proposed witnesses.

Defendant has not responded to the OSC. On August 27, 2020, Plaintiff filed a response stating that it had heard nothing from Defendant in connection with the OSC.

## II. Findings and Conclusions

To impose case dispositive sanctions, the Court is "required to consider whether the ... noncompliance involved willfulness, fault, or bad faith, and also to consider the availability of lesser sanctions." *R & R Sails*, 673 F.3d at 1247 (internal citations omitted). When imposing case-dispositive sanctions, the Court must consider the following factors:

- 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 who has litigated diligently;
- 4) the public policy favoring the disposition of cases on their merits; and
- 5) the availability of less drastic sanctions.

*Moneymaker v. CoBEN (In re Eisen)*, 31 F.3d 1447, 1451 (9th Cir. 1994); *see also Hester v. Vision Airlines, Inc.*, 687 F.3d 1162, 1169 (9th Cir. 2012) (applying the *Eisen* factors to determine whether it was appropriate for a court to strike a pleading and enter default).

There are three sub-parts to the fifth factor, the availability of less drastic sanctions: "whether the court has considered lesser sanctions, whether it tried them, and whether it warned the recalcitrant party about the possibility of case-dispositive sanctions." *Connecticut Gen. Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d 1091, 1096 (9th Cir. 2007). The application of these factors is not mechanical; instead, the factors provide the Court "with a way to think about what to do, not a set of conditions precedent for sanctions or a script that the [Court] must follow." *Id.*

As set forth below, application of the *Eisen* factors supports the imposition of

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terminating sanctions.

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**1. Public's Interest in Expeditious Resolution of Litigation**

Defendant failed to fulfill any of his obligations in connection with the Pretrial Conference, even after Plaintiff served a copy of the proposed Joint Pretrial Stipulation upon Defendant by overnight courier and attempted to contact Defendant by telephone and e-mail. Defendant did not provide Plaintiff a list of exhibits, copies of exhibits, or a list of witnesses that Defendant intended to call at trial. *See* Declaration of Peter J. Tormey in Support of Plaintiffs' Motion In Limine No. 1 to Preclude Defendant from Introducing Exhibits and/or Witnesses at Trial [Doc. No. 60] at ¶ 8. Defendant did not respond to any of the e-mails Plaintiff sent in an attempt to prepare for the Pretrial Conference. *Id.*

Defendant's failure to fulfill any of his obligations in preparation for the Pretrial Conference, as well as his failure to respond to the OSC, has impeded the expeditious resolution of this action. As the Ninth Circuit has explained, "[t]he public's interest in expeditious resolution of litigation always favors" the imposition of sanctions. *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002). This factor supports the imposition of terminating sanctions.

**2. The Court's Need to Manage its Docket**

Courts have the "power to manage their dockets without being subject to the endless vexatious noncompliance of litigants ...." *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992), *as amended* (May 22, 1992). As discussed above, Defendant's failure to fulfill his obligations in connection with the Pretrial Conference or to respond to the OSC has impeded the expeditious resolution of this action, and has consequently placed an additional burden upon the Court's docket. This factor supports the imposition of terminating sanctions.

**3. The Risk of Prejudice to the Diligent Party**

A diligent party suffers prejudice if the noncompliant party's actions impair the diligent party's "ability to go to trial or threaten to interfere with the rightful decision of the case." *In re Phenylpropanolamine (PPA) Prod. Liab. Litig.*, 460 F.3d 1217, 1227 (9th Cir. 2006).

Defendant's failure to participate in the Pretrial Conference has interfered with the rightful decision of the case. It is not possible for Plaintiff to prepare for trial where Defendant fails to provide copies of exhibits, a list of witnesses, or meet and confer in good faith to determine the issues of fact and law that remain in dispute. This factor

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CONT... Ryan James McMillin

Chapter 7

supports of the imposition of terminating sanctions.

**4. The Public Policy Favoring the Disposition of Cases on Their Merits**

Normally, “the public policy favoring disposition of cases on their merits strongly counsels against dismissal.” *In re PPA Prods.*, 460 F.3d at 1228. However, “a case that is stalled or unreasonably delayed by a party’s failure to comply with deadlines and discovery obligations cannot move forward toward resolution on the merits.” *Id.* This factor therefore “lends little support” to a party “whose conduct impedes progress in that direction.” *Id.* (citations and quotations omitted). In other words, parties have a responsibility “to refrain from dilatory and evasive tactics.” *Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 652 (9th Cir. 1991).

Defendant failed to respond to any of Plaintiff’s attempts at communication in connection with the Pretrial Conference. Defendant failed to respond to the OSC, notwithstanding the Court’s warning that failure to respond could result in the striking of Defendant’s Answer and the entry of default. This factor supports the imposition of terminating sanctions.

**5. The Availability of Less Drastic Sanctions**

The Court finds that less drastic sanctions would not adequately remediate Defendant’s non-compliance. The OSC warned Defendant of the possibility of case-dispositive sanctions. Notwithstanding this warning, Defendant failed to respond to the OSC. The Court finds Defendant’s failure to communicate with Plaintiff in connection with the Pretrial Conference, followed by Defendant’s failure to respond to the OSC, to be willful and in bad faith. This factor supports the imposition of terminating sanctions.

**III. Conclusion**

Based upon the foregoing, the Court will strike Defendant’s Answer and enter Defendant’s default. By no later than **October 9, 2020**, Plaintiff shall file a Motion for Default Judgment (the “Motion”). The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The Court will prepare and enter an order striking Defendant’s Answer and entering Defendant’s default.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear,**



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**CONT... Ryan James McMillin Chapter 7**

**please first contact opposing counsel to inform them of your intention to do so.**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Represented By  
Steven J Renshaw  
Errol J Zshornack  
Peter J Tormey

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Represented By  
Peter J Tormey  
Errol J Zshornack

G-Sight Solutions, LLC, a California

Represented By  
Peter J Tormey  
Errol J Zshornack

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, September 9, 2020

Hearing Room 1568

10:00 AM

2:16-17463 Gardens Regional Hospital and Medical Center, Inc.

Chapter 11

#3.00 Hearing re [1598] Fourth Objection to Claim #  
11,17,34,53,70,110,113,116,127,146,151 by Claimant Numerous Claimants in  
the amount of \$ 373,926.47 (Approx.)

Docket 0

**Tentative Ruling:**

9/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Liquidating Trustee's Fourth Omnibus Claims Objection is **GRANTED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Fourth Omnibus Claims Objection [Doc. No. 1598] (the "Claims Objection")
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

Gardens Regional Hospital and Medical Center, Inc. (the "Debtor") filed a voluntary Chapter 11 petition on June 6, 2016 (the "Petition Date"). On September 18, 2018, the Court confirmed the Debtor's *Joint Chapter 11 Plan of Liquidation* (the "Plan"). The Plan appointed Michael R. Lane as the Liquidating Trustee responsible for, among other things, objecting to claims.

The Liquidating Trustee objects to eleven general unsecured claims, on the ground that the claims are not supported by sufficient evidence substantiating the validity and/or amount of the claims. *See* Doc. No. 1598 (the "Claims Objection"). The Liquidating Trustee sent written correspondence to the claimants seeking additional documentation supporting the claims. The claimants failed to respond to the requests for additional information.

No opposition to the Claims Objection is on file.

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Los Angeles  
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CONT... **Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

## **II. Findings of Fact and Conclusions of Law**

A proof of claim is entitled to a presumption of prima facie validity, but only if it is filed in accordance with the requirements of the Bankruptcy Rules. Bankruptcy Rule 3001(f). Where a claim is based upon a writing, the "original or a duplicate [of the writing] shall be filed with the proof of claim." Bankruptcy Rule 3001(c).

Claimants "have an obligation to respond to formal or informal requests for information" regarding their claims. *Heath v. Am. Express. Travel Related Svcs. Co. (In re Heath)*, 331 B.R. 424, 436 (B.A.P. 9th Cir. 2005). A claimant's failure to respond to requests for information regarding a claim that lacks sufficient documentation is cause for disallowing the claim. *Id.*

Here, the claims are not supported by adequate documentation, and the claimants failed to respond to the Liquidating Trustee's requests for additional information substantiating the claims. Accordingly, as discussed more fully below, the claims are disallowed based upon a lack of evidentiary support.

### Claim 110, Asserted by CompSpec Inc. in the Amount of \$119,598.30

The basis for this claim is listed as "billing services rendered, fees due/outstanding." The only support provided is a set of invoices that state "Medi-Cal Accounts @16%," and an amount, without any explanation.

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 110 is DISALLOWED in its entirety.

### Claim 17, Asserted by Dell Financial Services, LLC in the Amount of \$342.21

The basis for this claim is listed as "retail." The claim attaches a single page "account detail" that does not provide any evidence that the claim is a liability of the Debtor or the estate, or that the claim is otherwise valid.

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 17 is DISALLOWED in its entirety.

### Claim 146, Asserted by Health Net of California, Inc. in the Amount of \$13,310.31

The basis for this claim is listed as "overpayment to provider." Claimant alleges that it "rendered services to the debtor ... pursuant to the Debtor's participation in one

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**CONT... Gardens Regional Hospital and Medical Center, Inc. Chapter 11**

or more of [the claimant's] networks of participating providers that render services to beneficiaries of various benefit programs."

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 146 is DISALLOWED in its entirety.

Claim 70, Asserted by Kendell Brill & Kelly LLP in the Amount of \$3,185.00

The basis for this claim is listed as "professional services provided." The claim includes only a summary of purported invoices, a single redacted invoice, and a trust balance statement. The claim does not include a copy of any underlying engagement letter, retainer agreement, or other contract with the Debtor pursuant to which the alleged services were performed.

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 70 is DISALLOWED in its entirety.

Claim 53, Asserted by the Law Office of Jason L. Barbanell, Inc. in the Amount of \$40,000.00

The basis for this claim is listed as "services performed along with monthly retainer fee." No supporting documentation is attached.

The claim is not supported by any documentation, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 53 is DISALLOWED in its entirety.

Claim 113, Asserted by Liner LLP in the Amount of \$48,844.08

The basis for this claim is listed as "performance of legal services." The evidence attached to the claim consists of redacted invoices from December 2014 to May 2015. The claim does not include a copy of any underlying engagement letter, retainer agreement, or other contract with the Debtor pursuant to which the alleged services were performed.

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 113 is DISALLOWED in its entirety.

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**CONT... Gardens Regional Hospital and Medical Center, Inc. Chapter 11**

Claim 127, Asserted by Medline Industries, Inc. in the Amount of \$72,204.80

The basis for this claim is listed as "goods sold." The only evidence supporting the claim is a summary of purported invoices, which appear to reference various purchase orders. The actual invoices and purchase orders are not attached.

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 127 is DISALLOWED in its entirety.

Claim 116, Asserted by Nelson Hardiman LLP in the Amount of \$28,354.86

The basis for this claim is listed as "legal services performed." The only evidence supporting the claim are copies of a summary of client balances and outstanding invoices. The underlying engagement or retainer agreement and the actual invoices or billing records are not attached.

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 116 is DISALLOWED in its entirety.

Claim 151, Asserted by Synchrony Bank in the Amount of \$8,374.00

The basis for this claim is listed as "money loaned revolving credit." A copy of the underlying credit agreement is not attached.

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 151 is DISALLOWED in its entirety.

Claim 34, Asserted by T. Scott MacGillivray in the Amount of \$36,652.12

The basis for this claim is listed as "architectural services—labor & expenses." A copy of the underlying engagement agreement or contract with the Debtor is not attached.

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 34 is DISALLOWED in its entirety.

Claim 11, Asserted by W.W. Grainger, Inc. in the Amount of \$3,059.79

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**CONT... Gardens Regional Hospital and Medical Center, Inc. Chapter 11**

The basis for this claim is listed as "goods sold." The only evidence submitted is a summary statement referencing purchase orders and invoices. The actual underlying invoices are not attached.

The documentation attached to the claim is insufficient to substantiate the amount alleged, and the claimant has failed to respond to the Liquidating Trustee's requests for additional information regarding the claim. Therefore, Claim 34 is **DISALLOWED** in its entirety.

**III. Conclusion**

Based upon the foregoing, the Claims Objection is **SUSTAINED**, and the following claims are **DISALLOWED** in their entirety: Claim Nos. 110, 17, 146, 70, 53, 113, 127, 116, 151, 34, and 11.

Within seven days of the hearing, the Liquidating Trustee shall lodge an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Gardens Regional Hospital and

Represented By  
Samuel R Maizel  
John A Moe II

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, September 9, 2020**

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10:00 AM

**2:16-17463 Gardens Regional Hospital and Medical Center, Inc.**

**Chapter 11**

**#4.00** Hearing re [1599] Objection to Claim #80 by Claimant Lenders Funding, LLC. in the amount of \$ 3,491,805.17

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 9-1-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Gardens Regional Hospital and

Represented By  
Samuel R Maizel  
John A Moe II

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, September 9, 2020**

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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#5.00** HearingRE: [5508] Motion to Approve Compromise Under Rule 9019 With Debtors and California Nurses Association (CNA); Declaration of Richard G. Adcock In Support Thereof

Docket 5508

**Tentative Ruling:**

9/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Declaration of Service [Doc. No. 5997] does not indicate whether the Motion was served upon the individual members of the California Nurses Association (the "CNA"). The Settlement Agreement requires that the Motion be served upon CNA members who worked at St. Vincent Medical Center. Settlement Agreement at ¶ 4. Subject to confirmation that the Motion was served upon CNA members, the Court is prepared to **GRANT** the Motion in its entirety. (Debtors may provide such confirmation either by appearing at the hearing or by filing an updated Declaration of Service no later than 9:00 p.m. on the day prior to the hearing.)

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice and Motion to Approve Settlement Between Debtors and California Nurses Association (CNA) [Doc. No. 5508] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5496, 5500, 5501, 5502, 5503, 5504, 5505, 5507 and 5508 [Doc. No. 5997]
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018, Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for



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CONT... **Verity Health System of California, Inc.**

**Chapter 11**

relief under Chapter 11 of the Bankruptcy Code. The Debtors' case are being jointly administered. The Debtors seek approval of a settlement agreement (the "Settlement Agreement") between VHS, Seton Medical Center and Seton Medical Center Coastside, St. Vincent Medical Center, St. Vincent Dialysis Center, Inc., St. Francis Medical Center, Verity Holdings, LLC and DePaul Ventures, LLC (collectively, "Verity") and Richard G. Adcock and Steven Sharrer, on the one hand, and the CNA, both in its individual capacity and on behalf of its represented members, on the other hand. The Settlement Agreement resolves an adversary proceeding (the "Adversary Proceeding") brought by CNA against the Debtors and Messrs. Adcock and Sharrer, alleging violations of the Federal Worker Adjustment and Retraining Notification Act (the "WARN Act"), the California WARN Act, and California state misrepresentation law, all in connection with the closure of St. Vincent Medical Center.

The principal terms of the Settlement Agreement can be summarized as follows:

- 1) CNA shall be granted a single, allowed administrative expense claim against Verity in the total amount of \$2 million (the "Administrative Claim"). A payment of \$850,000 in partial satisfaction of the Administrative Claim shall be made within ten business days after entry of an order approving the Settlement Agreement. The balance of the Administrative Claim, in the amount of \$1,150,000, shall be paid on the effective date of the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* [Doc. No. 5466] (the "Plan").
- 2) CNA shall be granted a single, allowed general unsecured claim against Verity in the total amount of \$6 million, which will be classified and treated in accordance with the Plan.

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C*

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CONT... Verity Health System of California, Inc.

Chapter 11

*Properties*), 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Settlement Agreement is adequate, fair, and reasonable, and is in the best interests of the estate and creditors.

*Probability of Success on the Merits*

Litigation between the parties would involve several uncertainties. CNA asserts multiple claims against the Debtors, so litigation would be multi-faceted. It is not clear that success in one portion of the litigation would guarantee success on another. The parties' arguments are factual, actuarial, and legal; the intersectional nature of these arguments poses additional uncertainty. As a result, this factor weighs in favor of approving the Settlement Agreement.

*Complexity of the Litigation*

With the assistance of retired Bankruptcy Judge David H. Coar, the parties have devoted extensive time to reconciling their claims and formulating a settlement. The litigation is complex and is in its early stages. CNA's motion to withdraw the reference has yet to be decided. Any judgment entered by the trial court would almost certainly be subject to an appeal. The delay in resolution of the Adversary Proceeding would expose the estates to substantial uncertainty, thereby interfering with the consummation of the Plan. This factor weighs in favor of approving the Settlement Agreement.

*Paramount Interests of Creditors*

The Committee has not objected to the Settlement Agreement, and the Settlement Agreement resolves material claims against the Debtors' estates. This factor weighs in favor of approving the Settlement Agreement.

*Difficulties to Be Encountered in the Matter of Collection*

This factor does not apply.

**III. Conclusion**

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Based upon the foregoing, the Court is prepared to **GRANT** the Motion and **APPROVE** the Settlement Agreement, subject to confirmation that the Motion was served upon the individual members of the CNA as required by ¶ 4 of the Settlement Agreement. (Debtors may provide such confirmation either by appearing at the hearing or by filing an updated Declaration of Service no later than 9:00 p.m. on the day prior to the hearing.)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16713 Anthony Dillon Gutierrez**

**Chapter 7**

**#1.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Harley-Davidson FXDV Street Bob with Proof of Service. (Nagel, Austin)

Docket 8

**Tentative Ruling:**

9/10/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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**Monday, September 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Anthony Dillon Gutierrez**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Anthony Dillon Gutierrez

Represented By  
Jaime A Cuevas Jr.

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-17164 Francisco Eduardo Velasco**

**Chapter 7**

**#2.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Chevrolet Volt, VIN: 1G1RC6S54HU182244 . (Ith, Sheryl)

Docket 8

**Tentative Ruling:**

9/10/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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**CONT... Francisco Eduardo Velasco**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Francisco Eduardo Velasco

Represented By  
Eric Bensamochan

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01399 Elissa D. Miller, solely in her capacity as chapte v. Old World Precast, Inc., a

**#1.00** Status Conference to monitor consummation of the settlementPre-Trial Conference RE: [1] Adversary case 2:18-ap-01399. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Old World Precast, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

fr: 10-15-19; 3-10-20; 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11-17-20 AT 10:00 AM**

**Tentative Ruling:**

6/15/2020

Order entered. Status conference **CONTINUED to September 15, 2020, at 10:00 a.m.**

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Old World Precast, Inc., a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01385 Mastan, Chapter 7 Trustee v. US Bank, N.A. et al

**#2.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01385. Complaint by Peter J. Mastan, Chapter 7 Trustee against US Bank, N.A., Kenny Hwang, Hee Jung Lee. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-12-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

US Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

Hee Jung Lee

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#3.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01386. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20; 3-17-20

FR. 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Pro Se

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#4.00** Status Hearing

RE: [11] Crossclaim by HSBC Bank, N.A. against Jason Young Cho, Youngduk Duk Cho

fr: 1-14-20; 3-17-20

FR. 7-14-20

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Represented By  
Jennifer Witherell Crastz

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01392 Mastan v. Flintridge Preparatory School, Inc. et al

**#5.00 Status Hearing**

RE: [37] Amended Complaint First Amended Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (4) Preservation of Avoided Transfer [11 U.S.C. § 551] by Meghann A Triplett on behalf of Peter Mastan against Flintridge Preparatory School, Inc., Nam Soo Hwang, Young J. Hwang, Young Jae Hwang. (RE: related document(s)1 Adversary case 2:19-ap-01392. Complaint by Peter Mastan against Flintridge Preparatory School, Inc., Hee Young Hwang, Young J. Hwang, Joyce J. Hwang, Nam Soo Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) filed by Plaintiff Peter Mastan). (Triplett, Meghann)

FR. 5-12-20; 7-14-20

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Defendant(s):**

Flintridge Preparatory School, Inc.	Pro Se
Joyce J. Hwang	Represented By Christian T Kim
Nam Soo Hwang	Represented By Christian T Kim
DOES 1 through 10	Pro Se
Hee Young Hwang	Represented By Christian T Kim
Young J. Hwang	Represented By Christian T Kim
Young Jae Hwang	Represented By Christian T Kim
Hee Youn Hwang	Represented By Christian T Kim

**Plaintiff(s):**

Peter Mastan	Represented By Meghann A Triplett
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**Trustee(s):**

Peter J Mastan (TR)	Represented By Meghann A Triplett Noreen A Madoyan
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, September 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01393 Mastan, Chapter 7 Trustee v. Hwang et al

**#6.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01393. Complaint by Peter J. Mastan, Chapter 7 Trustee against In Young Hwang, Twig & Twine, Inc., Danielle Steckler. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-12-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

In Young Hwang

Pro Se

Twig & Twine, Inc.

Pro Se

Danielle Steckler

Pro Se

DOES 1 through 10

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#7.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 4-21-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01399 Mastan, Chapter 7 Trustee v. Hwang

**#8.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01399. Complaint by Peter J. Mastan, Chapter 7 Trustee against Hyun Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 12-4-19; 2-11-20; 4-14-20; 5-12-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the “Trustee”) commenced this fraudulent transfer action against Hyun Hwang (the “Defendant”) on September 14, 2019. On December 11, 2019, the Court denied the Defendant’s Motion to Dismiss, and ordered the Defendant to file an Answer by no later than January 21, 2020. Doc. No. 25. Defendant timely filed an Answer. The Trustee seeks leave to file a First Amended Complaint to allege an additional \$80,000 transfer from the Debtor to the Defendant.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In the event that Defendant declines to stipulate to the filing of a First Amended Complaint, the Trustee shall file a motion for leave to amend by no later than **March 10, 2020**.
- 2) A continued Status Conference is set for **April 14, 2020, at 10:00 a.m.** A Joint Status Report shall be submitted by no later than fourteen days prior to the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, September 15, 2020

Hearing Room 1568

10:00 AM

CONT... **Keystone Textile, Inc.**

**Chapter 7**

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Hyun Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01400 Mastan, Chapter 7 Trustee v. Hwang et al

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01400. Complaint by Peter J. Mastan, Chapter 7 Trustee against Mirea Rea Hwang, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 11-26-19; 12-4-19; 2-11-20; 5-12-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the "Trustee") commenced this fraudulent transfer action against Mirea Rea Hwang (the "Defendant") on September 14, 2019. On December 4, 2019, the Court conducted a hearing on the Defendant's Motion to Dismiss. The Court found that adjudication of the Complaint would violate the automatic stay arising in the bankruptcy petition filed by Defendant's spouse, Kenny Hwang ("K. Hwang"). The Court ordered that the action would be stayed, unless and until the Trustee obtained relief from the automatic stay in K. Hwang's bankruptcy case.

The Trustee has not moved for stay relief in K. Hwang's bankruptcy case. A continued meeting of creditors in K. Hwang's bankruptcy case is set for February 12, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **May 12, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Mirea Rea Hwang

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01402 Mastan, Chapter 7 Trustee v. Hwang et al

**#10.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01402. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Trigen Int'l, Inc., Beyond Textile, Inc., Does 1 - 10, inclusive. (Charge To Estate). COMPLAINT FOR: (1) AVOIDANCE OF ACTUAL FRAUDULENT TRANSFERS [11 U.S.C. 544(b), 548(a)(1)(A), And 550(a), And Cal. Civ. Code §§ 3439.04(a) And 3439.07]; (2) AVOIDANCE OF CONSTRUCTIVE FRAUDULENT TRANSFERS [11 U.S.C. §§ 544(b), 548(a)(1) (B), And 550(a), And Cal. Civ. Code §§ 3439.04(b) Or 3439.05 And Cal. Civ. Code § 3439.07] (3) CONSPIRACY TO DEFRAUD [11 U.S.C. § 105(a)] (4) FOR RECOVERY OF ILLEGAL DIVIDENDS [Cal. Corp. Code §§ 500, 501 And 506] (5) FOR BREACH OF FIDUCIARY DUTY; AND (6) RECOVERY OF AVOIDED TRANSFER [11 U.S.C. § 550(a)] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (14 (Recovery of money/property - other)) (Triplett, Meghann)

fr. 11-19-19; 2-11-20; 4-14-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

4/13/2020:

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Prosecution of this avoidance action against Defendant Kenny Hwang was stayed by Hwang's filing of a Chapter 7 voluntary petition on September 19, 2019 (Case No. 2:19-bk-21045-BR). The Trustee voluntarily dismissed Defendants Trigen Int'l, Inc. and Beyond Textile, Inc. on March 11, 2020. Doc. Nos. 33-34. The Trustee has not moved for stay relief in Hwang's bankruptcy case.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Keystone Textile, Inc.**

**Chapter 7**

- 1) A continued Status Conference is set for **July 14, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Trigen Int'l, Inc.

Pro Se

Beyond Textile, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, September 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01403 Mastan, Chapter 7 Trustee v. K2 America, Inc. et al

**#11.00 Status Conference**

RE: [1] Adversary case 2:19-ap-01403. Complaint by Peter J. Mastan, Chapter 7 Trustee against K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; and (5) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 6-16-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, September 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#12.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20; 3-17-20; 4-21-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
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Los Angeles  
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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01404 Mastan, Chapter 7 Trustee v. Hwang et al

**#13.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01404. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Mirea Rea Hwang, Hyun Hwang, Tri Blossom, LLC, K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery from Subsequent Transferee [11 U.S.C. §§ 544, 548]; (5) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; (6) Conspiracy to Defraud [11 U.S.C. § 105(a)]; (7) For Recovery of Illegal Dividends [Cal. Corp. Code §§ 500, 501 and 506]; and (8) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Triplett, Meghann)

FR. 11-19-19; 12-4-19; 2-11-20; 5-12-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

2/10/2020

The Chapter 7 Trustee (the "Trustee") filed this fraudulent transfer action against Kenny Hwang ("K. Hwang"), Mirea Hwang ("M. Hwang"), Hyun Hwang ("H. Hwang"), Tri Blossom, LLC, and K2 America, Inc. (collectively, the "Defendants") on September 15, 2019. On December 4, 2019, the Court conducted a hearing on a Motion to Dismiss brought by Defendants K. Hwang, M. Hwang, H. Hwang, and Tri Blossom LLC. The Court found that adjudication of the Complaint would violate the automatic stay arising in the bankruptcy petition filed K. Hwang. The Court ordered that the action would be stayed, unless and until the Trustee obtained relief from the automatic stay in K. Hwang's bankruptcy case.



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**CONT... Tbetty, Inc.**

**Chapter 7**

The Trustee has not moved for stay relief in K. Hwang's bankruptcy case. A continued meeting of creditors in K. Hwang's bankruptcy case is set for February 12, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **May 12, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Hyun Hwang

Pro Se

Tri Blossom, LLC

Pro Se

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

Mi Rae Hwang

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#14.00 Status Hearing**

RE: [20] Amended Complaint First Amended Complaint (1) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. § 548(a)(1)(A); (2) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. § 548(a)(1)(B); (3) To Avoid and Recover Fraudulent Transfer Under 11 U.S.C. § 544 and California Civil Code § 3439.04(A)(1); (4) To Avoid and Recover Fraudulent Transfer Under 11 U.S.C. § 544 and California Civil Code § 3439.04(a)(2)(A); (5) To Avoid and Recover Fraudulent Transfer Under 11 U.S.C. § 544 and California Civil Code § 3439.04(a)(2)(B); (6) To Avoid and Recover Fraudulent Transfer Under 11 U.S.C. § 544 and California Civil Code § 3439.05; (7) To Avoid and Recover Preferential Transfer Pursuant to 11 U.S.C. § 547(b); (8) To Recover Fraudulent and Preferential Transfers Pursuant to 11 U.S.C. § 550(a); and (9) To Preserve Transfers Pursuant to 11 U.S.C. § 551 by Diane C Weil on behalf of Rosendo Gonzalez against CP WW Ventures Inc, CTC Investment Holdings LLC, Catalyst Trust, Charlton Lui, Primo Hospitality Group, Inc., Hovahannes Tshavrushyan. (RE: related document(s)1 Adversary case 2:19-ap-01495. Complaint by Rosendo Gonzalez against Charlton Lui, Catalyst Trust, CP WW Ventures Inc, CTC Investment Holdings LLC, Primo Hospitality Group, Inc., Hovahannes Tshavrushyan. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) filed by Plaintiff Rosendo Gonzalez). (Weil, Diane)

Docket 20

**\*\*\* VACATED \*\*\* REASON: DISMISSED 7-24-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe

Represented By  
Michael Jay Berger

**United States Bankruptcy Court  
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**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

**Defendant(s):**

Charlton Lui

Represented By  
Sanaz S Bereliani

Catalyst Trust

Pro Se

CP WW Ventures Inc

Pro Se

CTC Investment Holdings LLC

Pro Se

Primo Hospitality Group, Inc.

Pro Se

Hovahannes Tshavrushyan

Represented By  
Roland H Kedikian

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Diane C Weil

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20111 Jeremy Wyatt LeClair**

**Chapter 7**

Adv#: 2:18-01425 Cortes v. LeClair

**#15.00 Status Conference**

RE: [1] Adversary case 2:18-ap-01425. Complaint by Alvaro Cortes against Jeremy Wyatt LeClair. false pretenses, false representation, actual fraud)),(11 (Recovery of money/property - 542 turnover of property)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Weissman, I)

fr. 5-15-19; 11-13-19; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3-9-2021 AT 10:00 AM**

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

In this action, Plaintiff alleges that a judgment entered on March 28, 2017 against Defendant in the amount of \$590,908.50 in the Los Angeles Superior Court (the "State Court Judgment") is non-dischargeable pursuant to § 523(a)(2)(A) and (a)(6). Plaintiff further alleges that Defendant's discharge should be denied, pursuant to § 727(a)(2)(A).

On October 8, 2019, Defendant filed a *Complaint for Independent Action in Equity to Set Aside and Vacate Default and Default Judgment for Lack of Personal Jurisdiction* in the State Court (the action commenced by the filing of such complaint, the "State Court Collateral Attack Action"). The State Court Collateral Attack Action seeks to vacate the State Court Judgment for lack of personal jurisdiction, and alleges that service of the State Court Complaint was defective.

On November 15, 2019, the Court granted Defendant's motion to stay this action pending resolution of the State Court Collateral Attack Action. Doc. No. 57.

A case management conference in the State Court Collateral Attack Action is set for May 6, 2020. Discovery has not been initiated in the State Court Collateral Attack

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**CONT... Jeremy Wyatt LeClair**

**Chapter 7**

Action.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **September 15, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which shall discuss the status of the State Court Collateral Attack Action, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Defendant(s):**

Jeremy Wyatt LeClair

Pro Se

**Plaintiff(s):**

Alvaro Cortes

Represented By  
I Donald Weissman

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

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10:00 AM

**2:20-12237 Christopher Paul Rabalais**

**Chapter 7**

Adv#: 2:20-01138 Leon v. Rabalais

**#16.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01138. Complaint by Seth Leon against Christopher Paul Rabalais. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Chang, Cheryl)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 7-10-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Christopher Paul Rabalais Pro Se

**Defendant(s):**

Christopher Paul Rabalais Pro Se

**Plaintiff(s):**

Seth Leon Represented By  
Cheryl S Chang

**Trustee(s):**

John P Pringle (TR) Pro Se

**United States Bankruptcy Court  
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Tuesday, September 15, 2020

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10:00 AM

**2:20-12958 Dikran Stepan Tcheubjian**  
Adv#: 2:20-01139 Krasnoff v. Sepilian et al

**Chapter 7**

**#17.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01139. Complaint by Brad D. Krasnoff against Micheline Sepilian, Dikran Stepan Tcheubjian, Haikanouche Tcheubjian. (Charge To Estate). -Trustee's Complaint to: (1) Avoid, Preserve and Recover Preferential Transfer; (2) Avoid, Preserve and Recover Fraudulent Transfer; and (3) Disallow Exemption 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)) (Singh, Sonia)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Dikran Stepan Tcheubjian	Represented By Eileen Keusseyan
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**Defendant(s):**

Micheline Sepilian	Pro Se
Dikran Stepan Tcheubjian	Pro Se
Haikanouche Tcheubjian	Pro Se

**Joint Debtor(s):**

Haikanouche Tcheubjian	Represented By Eileen Keusseyan
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**Plaintiff(s):**

Brad D. Krasnoff	Represented By Sonia Singh
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**United States Bankruptcy Court  
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10:00 AM

**CONT... Dikran Stepan Tcheubjian**

**Chapter 7**

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Sonia Singh  
Zev Shechtman

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Hearing Room 1568

10:00 AM

**2:20-12958 Dikran Stepan Tcheubjian**

**Chapter 7**

Adv#: 2:20-01140 Krasnoff v. Zeitounian et al

**#18.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01140. Complaint by Brad D. Krasnoff against Christine Molino Zeitounian, Dikran Stepan Tcheubjian, Haikanouche Tcheubjian. (Charge To Estate). -Trustee's Complaint to: (1) Avoid, Preserve and Recover Preferential Transfer; (2) Avoid, Preserve and Recover Fraudulent Transfer; and (3) Disallow Exemption 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)) (Singh, Sonia)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Dikran Stepan Tcheubjian

Represented By  
Eileen Keusseyan

**Defendant(s):**

Christine Molino Zeitounian

Pro Se

Dikran Stepan Tcheubjian

Pro Se

Haikanouche Tcheubjian

Pro Se

**Joint Debtor(s):**

Haikanouche Tcheubjian

Represented By  
Eileen Keusseyan

**Plaintiff(s):**

Brad D. Krasnoff

Represented By  
Sonia Singh

**United States Bankruptcy Court  
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10:00 AM

**CONT... Dikran Stepan Tcheubjian**

**Chapter 7**

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Sonia Singh  
Zev Shechtman

**United States Bankruptcy Court  
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**2:20-13016 Charlene Eleazar Lobarbio**

**Chapter 7**

Adv#: 2:20-01143 Sanchez et al v. Lobarbio

**#19.00** Status Hearing RE: [1] Adversary case 2:20-ap-01143. Complaint by Carmela Sanchez, Herminia V. Figueroa against Charlene Eleazar Lobarbio. 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))),65 (Dischargeability - other)) (Nazarian, Morris)

Docket 1

**Tentative Ruling:**

9/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the Joint Status Report filed by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) To accommodate Plaintiff's counsel's schedule regarding the trial date, the litigation deadlines previously ordered are extended, as follows:
  - a) The last day to amend pleadings and/or join other parties is **12/17/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **3/30/2021**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **4/29/2021**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **5/15/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert

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**Charlene Eleazar Lobarbio**

**Chapter 7**

- discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **5/29/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **5/15/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **6/15/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed

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CONT...

**Charlene Eleazar Lobarbio**

**Chapter 7**

supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.

iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.

i) Trial is set for the week of **6/28/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

2) The matter shall be referred to the Mediation Panel. (The Court notes that the parties have already selected Leslie Cohen as the mediator.) Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Charlene Eleazar Lobarbio

Represented By  
Giovanni Orantes

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, September 15, 2020**

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10:00 AM

**CONT... Charlene Eleazar Lobarbio**

**Chapter 7**

**Defendant(s):**

Charlene Eleazar Lobarbio

Pro Se

**Plaintiff(s):**

Carmela Sanchez

Represented By  
Morris Nazarian

Herminia V. Figueroa

Represented By  
Morris Nazarian

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
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Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01377 Packaging Corporation of America v. Bonert et al

**#20.00** Status Conference re: Collection Actions re: Notice of Removal of Civil Action to United States Bankruptcy Court. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer))

FR. 3-10-20; 3-11-20; 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-23-20 AT 10:00 A.M.**

**Tentative Ruling:**

3/10/2020

See Cal. No. 9.10, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Packaging Corporation of America	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01378 Coastal Carriers, LLC v. Bonert et al

**#21.00** Status Hearing

re: Collection Actions [1] Adversary case 2:19-ap-01378. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan)

FR. 3-10-20; 3-11-20; 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-23-20 AT 10:00 A.M.**

**Tentative Ruling:**

3/10/2020

See Cal. No. 9.10, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Coastal Carriers, LLC	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#22.00** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01405. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

FR. 3-10-20; 3-11-20; 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-23-20 AT 10:00 A.M.**

**Tentative Ruling:**

3/10/2020

See Cal. No. 9.10, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Represented By  
Lawrence M Jacobson

Bonert Management Company, Inc.

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

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10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Bonert's Jadasaha, LLC	Represented By Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon, LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson
DOES 1 through 10, inclusive	Pro Se
Beefam, LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Capitol Distribution Company, LLC	Represented By Sean Lowe Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

**#23.00**      Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01406. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).

FR. 3-10-20; 3-11-20; 6-16-20

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9-23-20 AT 10:00 A.M.**

**Tentative Ruling:**

3/10/2020

Michael Bonert ("Michael") and Vivien Bonert ("Vivien," and together with Michael, the "Debtors") filed a voluntary Chapter 11 petition on September 12, 2019 (the "Petition Date"). Prior to the Petition Date, the Debtors operated a pie manufacturing company known as Bonert's Incorporated ("Bonerts"). In 2016, Bonerts ceased conducting business after its lender caused its assets to be sold through a federal receivership. Proceeds of the receivership sale were used to pay secured creditors, but were not sufficient to pay unsecured trade creditors, some of whom obtained unopposed judgments against Bonerts.

On August 13 and 14, 2019, Capitol Distribution Company, LLC ("Capitol"), Stratas Foods LLC ("Stratas"), Packaging Corporation of America, and Seneca Foods Corporation (collectively, the "Creditors") filed these four collection actions (the "Collection Actions") against the Debtors, Bonerts, and LLCs wholly owned by the Debtors that were affiliates of Bonerts (the "Affiliates"). The Collection Actions allege, *inter alia*, that the Debtors operated the Affiliates and Bonerts as a single enterprise for the purpose of defeating the rights of creditors; that the Debtors misappropriated assets of Bonerts and the Affiliates; and that the Debtors are liable for trade debt incurred by Bonerts as its alter ego.

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Los Angeles  
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**Michael Bonert**

**Chapter 11**

Having reviewed the Joint Status Reports submitted by the parties, the Court

**HEREBY FINDS AND ORDERS AS FOLLOWS:**

- 1) In the interests of judicial efficiency, the Court will consolidate the litigation of these four actions. The actions raise similar claims and the Debtors and the Affiliates have been named as Defendants in all of the actions. Notwithstanding such consolidation, the Court will maintain separate dockets for each adversary proceeding (as opposed to designating one of the proceedings as the lead case and requiring that all documents be filed in that proceeding).
- 2) Debtors/Defendants assert that it is not feasible to mediate the alter-ego and single enterprise liability issues raised in these actions with only the four Plaintiffs, while excluding from mediation 21 other creditors who also assert claims against the Debtors under alter-ego and single enterprise theories. The Debtors intend to object to the claims of all disputed creditors who have not filed adversary proceedings. The Court agrees with the Debtors that a global mediation involving all creditors asserting alter-ego claims would be more likely to result in settlement.
- 3) Debtors shall file objections to the claims of disputed creditors who have not filed adversary proceedings by no later than **March 18, 2020**. Unless otherwise ordered, the parties shall not be required to conduct the global mediation until these claim objections have been adjudicated.
- 4) The following litigation deadlines shall apply, subject to an extension for good cause shown:
  - a) A continued Status Conference to monitor the progress of mediation shall take place on **June 16, 2020, at 10:00 a.m.** A Status Report shall be filed by no later than fourteen days prior to the hearing.
  - b) Debtors have not responded to the Complaints in Adv. Nos. 2:19-ap-01377-ER and 2:19-ap-01378-ER. All non-Debtor Defendants have responded to the Complaints in these adversary proceedings. All parties have responded to the Complaints in Adv. Nos. 2:19-ap-01405-ER and 2:19-ap-01406-ER. Debtors shall respond to the Complaints in Adv. Nos. 2:19-ap-01377-ER and 2:19-ap-01378-ER by no later than **March 25, 2020**.
  - c) The last day to amend pleadings and/or join other parties is **7/16/2020**.
  - d) The last day to disclose expert witnesses and expert witness reports is **10/27/2020**.

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CONT...

**Michael Bonert**

**Chapter 11**

- e) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **11/26/2020**.
- f) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **12/15/2020**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- g) The last day for dispositive motions to be heard is **12/22/2020**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- h) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **12/26/2020**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- i) A Pretrial Conference is set for **1/12/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- j) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be



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CONT...

**Michael Bonert**

**Chapter 11**

inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1.

The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.

iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.

k) Trial is set for the week of **1/25/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

5) Plaintiffs have submitted a number of comments and suggestions regarding the production of electronically stored information, procedures for dealing with claims of privilege, procedures pertaining to the conduct of depositions, procedures for the treatment of commercially sensitive information, and procedures for electronic service. The Court declines to enter an order adopting detailed procedures with respect to these issues at this time. It is possible that certain of the issues which Plaintiffs' proposed procedures seek to resolve will not arise in these proceedings. Counsel for all parties shall work cooperatively to resolve issues regarding the conduct of the litigation without Court intervention.

The Court will prepare and enter Scheduling Orders.

No appearance is required if submitting on the court's tentative ruling. If you

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**CONT... Michael Bonert**

**Chapter 11**

intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Represented By  
Lawrence M Jacobson

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, September 15, 2020

Hearing Room 1568

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01397 Mastan, Chapter 7 Trustee v. Kim et al

**#100.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01397. Complaint by Peter J. Mastan, Chapter 7 Trustee against Ji Young Kim, Does 1 - 10, inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

fr: 6-16-20

Docket 1

\*\*\* VACATED \*\*\* REASON: DISMISSED 4-28-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Ji Young Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01401 Mastan, Chapter 7 Trustee v. Four Season Travel, Inc. et al

**#101.00 Pre-Trial Conference**

RE: [1] Adversary case 2:19-ap-01401. Complaint by Peter J. Mastan, Chapter 7 Trustee against Four Season Travel, Inc., Heidi Kim, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 3-13-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Four Season Travel, Inc.

Pro Se

Heidi Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#102.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01495. Complaint by Rosendo Gonzalez against Charlton Lui, Catalyst Trust, CP WW Ventures Inc, CTC Investment Holdings LLC, Primo Hospitality Group, Inc., Hovahannes Tshavrushyan. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Weil, Diane)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 6-15-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe

Represented By  
Michael Jay Berger

**Defendant(s):**

Charlton Lui

Pro Se

Catalyst Trust

Pro Se

CP WW Ventures Inc

Pro Se

CTC Investment Holdings LLC

Pro Se

Primo Hospitality Group, Inc.

Pro Se

Hovahannes Tshavrushyan

Pro Se

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Diane C Weil



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, September 15, 2020

Hearing Room 1568

11:00 AM

**2:19-15098 Phachira Ketkaew**

**Chapter 7**

Adv#: 2:19-01252 Jittanoon et al v. Ketkaew

**#103.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01252. Complaint by Peera Jittanoon, Preda Jittanoon against Phachira Ketkaew. 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)) (Landsberg, Ian)

FR. 5-12-20

Docket 1

\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 9-8-20

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Phachira Ketkaew

Represented By  
Jarintorn Tanatchasai

**Defendant(s):**

Phachira Ketkaew

Pro Se

**Plaintiff(s):**

Peera Jittanoon

Represented By  
Ian Landsberg

Preda Jittanoon

Represented By  
Ian Landsberg

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, September 15, 2020

Hearing Room 1568

11:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01411 Fernando v. Salamat et al

**#104.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01411. Complaint by Angela Sandra Legaspi Fernando against Marlon Camar Salamat, Daisy Anne Boiser Salamat. 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)),(91 (Declaratory judgment)) (Smyth, Stephen)

FR. 7-14-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 10-13-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto

**Defendant(s):**

Marlon Camar Salamat

Pro Se

Daisy Anne Boiser Salamat

Pro Se

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto

**Plaintiff(s):**

Angela Sandra Legaspi Fernando

Represented By  
Stephen S Smyth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01416 Linsangan v. Salamat et al

**#105.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01416. Complaint by Maria Linsangan against Marlon Camar Salamat, Daisy Anne Boiser Salamat. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Rodriguez, Sergio)

fr: 7-14-20

Docket 1

**Tentative Ruling:**

9/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Court has reviewed the (a) *Adversary Complaint to Object to Discharge of Debt and to Determine Dischargeability of Debt Under 11 U.S.C. § 523(a)(2) and 523(1)(6)* [Doc. No. 1] (the "Complaint") and the (b) *Pretrial Conference Stipulation and Proposed Order* [Doc. No. 47] (the "Pretrial Stipulation"). To enable trial to proceed as efficiently as possible, this tentative ruling sets forth the order in which Plaintiff shall present her claims.

In this dischargeability action, Plaintiff alleges that Defendants are indebted to Plaintiff in an amount in excess of \$200,000, and that such indebtedness is non-dischargeable pursuant to § 523(a)(2)(A)–(B) and 523(a)(6). The following facts are undisputed:

- 1) The indebtedness at issue arises from a Loan Agreement dated March 4, 2017 (the "Loan Agreement") between Plaintiff and At Home Therapy, LLC ("At Home Therapy"). Pursuant to the Loan Agreement, Plaintiff agreed to lend At Home Therapy \$100,000.
- 2) Defendants were the sole owners of At Home Therapy.

**United States Bankruptcy Court  
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**Hearing Room 1568**

11:00 AM

CONT...

**Marlon Camar Salamat**

**Chapter 7**

- 3) The Loan Agreement contains an integration clause, which provides that "[t]his Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise." Loan Agreement at ¶ 17.
- 4) Nothing in the Loan Agreement indicates that Defendants guaranteed repayment of the indebtedness incurred by At Home Therapy.
- 5) Proceeds of the loan were advanced by way of a check dated March 7, 2017, made out to At Home Therapy.

As the Ninth Circuit has explained, a non-dischargeability action requires consideration of two distinct issues: first, a determination of whether the Defendants are indebted to the Plaintiff; and second, a determination of whether the indebtedness is non-dischargeable. *Banks v. Gill Distribution Centers, Inc.*, 263 F.3d 862, 868 (9th Cir. 2001).

Before litigating the issue of the dischargeability of the indebtedness, Plaintiff must first establish that Defendants are in fact indebted to Plaintiff. That is because under the express terms of the Loan Agreement, At Home Therapy, not the Defendants, are liable for the indebtedness. Nothing in the Loan Agreement indicates that Defendants guaranteed repayment of the indebtedness incurred by At Home Therapy.

Given the express provisions of the Loan Agreement, Plaintiff can show that Defendants are liable for the indebtedness only by proving that Defendants are the alter ego of At Home Therapy. "Under the alter ego doctrine, ... when the corporate form is used to perpetrate a fraud, circumvent a statute, or accomplish some other wrongful or inequitable purpose, the courts will ignore the corporate entity and deem the corporation's acts to be those of the persons or organizations actually controlling the corporation, in most instances the equitable owners." *Sonora Diamond Corp. v. Superior Court*, 83 Cal. App. 4th 523, 538–39, 99 Cal. Rptr. 2d 824, 836–37 (2000). Invocation of the alter ego doctrine requires the satisfaction of two conditions: "First, there must be such a unity of interest and ownership between the corporation and its equitable owner that the separate personalities of the corporation and the shareholder do not in reality exist. Second, there must be an inequitable result if the acts in question are treated as those of the corporation alone." *Id.* However, the alter ego doctrine "does not guard every unsatisfied creditor of a corporation but instead affords protection where some conduct amounting to bad faith makes it inequitable for the corporate owner to hide behind the corporate form. Difficulty in enforcing a judgment or collecting a debt does not satisfy this standard." *Id.* Because a "basic

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CONT... **Marlon Camar Salamat**

**Chapter 7**

tenet of American corporate law is that the corporation and its shareholders are distinct entities," disregard of the corporate form and a finding of liability under an alter ego theory is warranted only "in the case of fraud or other exceptional circumstances." *Dole Food Co. v. Patrickson*, 538 U.S. 468, 474, 123 S.Ct. 1655, 155 L.Ed.2d 643 (2003); *see also In re Enter. Acquisition Partners, Inc.*, 319 B.R. 626, 634 (B.A.P. 9th Cir. 2004) (discussing the circumstances under which application of the alter ego doctrine is appropriate).

Plaintiff shall first present evidence showing that Defendants are liable for the indebtedness incurred by At Home Therapy under an alter ego theory. If Plaintiff lacks compelling evidence on this issue, the Court will consider entering a judgment on partial findings in favor of Defendants, pursuant to Civil Rule 52(c). The Court will take testimony regarding the dischargeability of the indebtedness only if compelling evidence has been presented showing that Defendants are liable for At Home Therapy's indebtedness under an alter ego theory.

**All Exhibits Are Deemed Admitted**

On December 16, 2019, the Court entered an order setting litigation deadlines and establishing procedures for the adjudication of evidentiary objections at trial [Doc. No. 13] (the "Evidence Procedures Order"). The Evidence Procedures Order required all parties to stipulate to the admissibility of exhibits whenever possible. It further provided:

In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference .... The failure of a party to file a Motion in Limine ... shall be deemed a waiver of any objections to the admissibility of an exhibit.

Evidence Procedures Order at ¶ 1(h)(ii).

No Motions in Limine have been filed in accordance with the requirements of the Evidence Procedures Order. Accordingly, all exhibits offered by the parties shall be deemed admitted.

**Trial Shall Take Place on Monday, September 28, 2020 at 9:00 a.m.**

As previously ordered, trial of this dischargeability action shall take place on **Monday, September 28, 2020 at 9:00 a.m.**, via videoconference conducted through

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CONT... **Marlon Camar Salamat**

**Chapter 7**

Zoom for Government. *See* Order Establishing Procedures for Pretrial Conference and Trial in View of COVID-19 Pandemic [Doc. No. 36] (the "Trial Procedures Order"). The deadlines set forth in the Trial Procedures Order for the submission of trial materials shall continue to apply.

**Defendants' Request for Issuance of a Second Order to Show Cause Re:  
Dismissal is Denied**

On August 30, 2020, Defendants requested that the Court issue a second order requiring Plaintiffs to show cause why this action should not be dismissed, based on Plaintiff's failure to cooperate in the preparation of a Joint Pretrial Stipulation. (The Court discharged a previous order requiring Plaintiff to show cause why the action should not be dismissed on July 15, 2020, Doc. No. 35.) After the Court issued an *Order to Comply*, Plaintiff cooperated with Defendants in the preparation and lodging of a proposed Joint Pretrial Stipulation. Therefore, Defendants' request for issuance of a second *Order to Show Cause Re: Dismissal* is denied. Defendants' request for attorneys' fees in the amount of \$568.75, as compensation for preparing the pleading requesting issuance of a second *Order to Show Cause Re: Dismissal*, is also denied.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto

**Defendant(s):**

Marlon Salamat

Pro Se

Daisy Salamat

Pro Se

DOES 1-10, Inclusive

Pro Se



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**CONT... Marlon Camar Salamat**

**Chapter 7**

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto

**Plaintiff(s):**

Maria Linsangan

Represented By  
Sergio A Rodriguez

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

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**Tuesday, September 15, 2020**

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11:00 AM

**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#106.00** Pre-Trial Conference  
RE: [12] Amended Complaint by Michael N Berke on behalf of Miguel Hernandez Cruz against Shamim Ahemmed. (Berke, Michael)

Docket 12

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-20 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Represented By  
Lawrence R Fieselman

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#107.00 Pre-Trial Conference**

RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 5-14-19; 2-11-20; 4-14-20; 5-12-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-2021 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

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11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#108.00** Pre-Trial Conference

RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Capitol Distribution Company, LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Inc., a California corporation, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

fr. 8-11-20

Docket 9

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-2021 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By

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**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Bonert's Mibon, LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson
DOES 1 through 10, inclusive	Pro Se
Beefam, LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Capitol Distribution Company, LLC	Represented By Sean Lowe Scott E Blakeley
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Tuesday, September 15, 2020

Hearing Room 1568

11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406 Stratas Foods LLC v. Bonert et al

**#109.00** Pre-Trial Conference

RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Stratas Foods LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Incorporated dba Bonert's Slice of Pie, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

fr: 8-11-20

Docket 9

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-2021 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By

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**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Bonert's Mibon, LLC	Represented By Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson
DOES 1 through 10, inclusive	Pro Se

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Stratas Foods LLC	Represented By Sean Lowe Scott E Blakeley
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**United States Bankruptcy Court  
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Courtroom 1568 Calendar**

**Monday, September 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15943 Vana Nazarian**

**Chapter 7**

**#1.00** HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Nissan Altima with Proof of Service. (Martinez, Kirsten)

Docket 9

**Tentative Ruling:**

9/17/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

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**CONT... Vana Nazarian**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Vana Nazarian

Represented By  
David H Chung

**Trustee(s):**

John P Pringle (TR)

Pro Se

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**Monday, September 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16424 Sang Young Yi**

**Chapter 7**

**#2.00** HearingRE: [14] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 BMW 7 Series 750i xDrive Sedan 4D . (Johnson, Marjorie)

Docket 14

**Tentative Ruling:**

9/17/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

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**CONT... Sang Young Yi**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Sang Young Yi

Represented By  
Jaenam J Coe

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
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**Hearing Room 1568**

10:00 AM

**2:20-17439 Justin D Utupo and Leila K Utupo**

**Chapter 7**

**#3.00** HearingRE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Toyota Prius .

Docket 12

**Tentative Ruling:**

9/17/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. The 14-day stay prescribed by

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**CONT... Justin D Utupo and Leila K Utupo**

**Chapter 7**

FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Justin D Utupo

Represented By  
Alisa Admiral

**Joint Debtor(s):**

Leila K Utupo

Represented By  
Alisa Admiral

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
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**2:20-16101 Seunghyun Kim**

**Chapter 7**

**#4.00** HearingRE: [26] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1050 S Grand Ave 1308, Los Angeles, CA 90015-1404 .

Docket 26

**Tentative Ruling:**

9/17/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Movant has established a *prima facie* case that cause exists, and Debtor has not responded with evidence establishing that the property is not declining in value or that Movant is adequately protected.

The subject property has a value of \$723,240.00 and is encumbered by a perfected deed of trust or mortgage in favor of the Movant. Considering Movant's lien, all senior liens against the property, and the estimated costs of sale, there is an equity

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**CONT... Seunghyun Kim**

**Chapter 7**

cushion of \$64,148.28. There is some, but very little equity and there is no evidence that the property is necessary to a reorganization or that the trustee can administer the property for the benefit of creditors. Movant is protected by a 9% equity cushion in the property. The Ninth Circuit has established that an equity cushion of 20% constitutes adequate protection for a secured creditor. Pistole v. Mellor (In re Mellor), 734 F.2d 1396, 1401 (9th Cir. 1984); see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.), 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral).

Because the equity cushion in this case is less than 20%, the Court concludes that Movant's interest in the collateral is not adequately protected. This is cause to terminate the stay under 11 U.S.C. § 362(d)(1).

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Seunghyun Kim

Represented By

Ji Yoon Kim

**Trustee(s):**

Wesley H Avery (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 21, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Seunghyun Kim**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23371 Jose Juan Cabrera**

**Chapter 7**

Adv#: 2:20-01105 United States Trustee for the Central District of v. Cabrera

**#1.00** HearingRE: [18] Motion for Default Judgment (Yip, Hatty)

Docket 18

**Tentative Ruling:**

9/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion for Default Judgment is GRANTED.

**Pleadings Filed and Reviewed:**

- 1) Motion for Default Judgment Under Local Bankruptcy Rule 7055-1 [Adv. Doc. No. 18] (the "Motion")
  - a) Request for Judicial Notice in Support of Motion for Default Judgment Under Local Bankruptcy Rule 7055-1 [Adv. Doc. No. 19]
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

Jose Juan Cabrera (the "Debtor") filed a voluntary Chapter 7 petition on November 13, 2019. The Debtor received a discharge on February 24, 2020. Bankr. Doc. No. 13. On April 23, 2020, the United States Trustee (the "UST") filed a *Complaint for Revocation of Discharge Pursuant to 11 U.S.C. § 727(d)(4)(B)* [Adv. Doc. No. 1] (the "Complaint").

Debtor's bankruptcy case was selected for a UST audit. The Complaint alleges that the Debtor failed to make documents available for inspection by the auditor, and seeks revocation of the Debtor's discharge on that ground.

The Clerk of the Court entered Debtor's default on June 11, 2020. The UST now moves for entry of default judgment against the Debtor. No opposition to the Motion is on file.

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**CONT... Jose Juan Cabrera**

**Chapter 7**

## **II. Findings and Conclusions**

Once default has been entered, the well-pleaded factual allegations of the complaint are taken as true. *Cripps v. Life Ins. Co. of North America*, 980 F.2d 1261, 1267 (9th Cir.1992). Based upon the Complaint's well-pleaded allegations and the evidence submitted in support of the Motion, the Court finds that the UST is entitled to a judgment revoking the Debtor's discharge, pursuant to § 727(d)(4)(B).

Section 727(d)(4)(B) provides that upon request of the UST, "the court shall revoke a discharge granted under subsection (a) of this section if the debtor has failed to explain satisfactorily a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28."

Through the Complaint and the evidence submitted in support of the Motion, the UST has established the following facts:

- 1) On November 22, 2019, the Debtor's bankruptcy case was selected for a UST audit.
- 2) On November 22, 2019, an e-mail was sent to the Debtor regarding the audit.
- 3) On November 26, 2019, a representative from the firm employed by the UST to conduct the audit (the "Auditor") telephoned and spoke with the Debtor about the audit.
- 4) On January 8, 2020, a further letter from the Auditor was sent to the Debtor.
- 5) On February 11, 2020, the Auditor left a phone message with the Debtor, stating that additional documents were needed to complete the audit.
- 6) On March 25, 2020, the Auditor filed a report stating that it was unable to complete the audit as a result of the Debtor's failure to provide sufficient information.

Based upon the foregoing facts, the UST is entitled to a judgment revoking the Debtor's discharge, pursuant to § 727(d)(4)(B). The Debtor failed to make available for inspection the documents necessary for completion of the audit. By failing to respond to the Complaint, the Debtor has not offered a satisfactory explanation for his failure to provide the information.

Within seven days of the hearing, the UST shall submit (1) an order granting the Motion, which incorporates this tentative ruling by reference and (2) a judgment for revocation of discharge. (Pursuant to Civil Rule 58, which provides that "every

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**CONT... Jose Juan Cabrera**

**Chapter 7**

judgment ... must be set out in a separate document," both an order and a judgment must be submitted.)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Jose Juan Cabrera	Pro Se
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**Defendant(s):**

Jose Juan Cabrera	Pro Se
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**Plaintiff(s):**

United States Trustee for the Central	Represented By Hatty K Yip
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**Trustee(s):**

Howard M Ehrenberg (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Tuesday, September 22, 2020

Hearing Room 1568

11:00 AM

2:18-12437 Wardine Bridges

Chapter 7

#100.00 APPLICANT: Accountant: Hahn Fife and Company, LLP

Hearing re [52] & [53] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

9/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

Fees: \$1,628 approved [*See* Doc. No. 49]

Expenses: \$259.40 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
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**Hearing Room 1568**

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11:00 AM

**CONT... Wardine Bridges**

**Chapter 7**

**Debtor(s):**

Wardine Bridges

Pro Se

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Toan B Chung

**United States Bankruptcy Court  
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Tuesday, September 22, 2020

Hearing Room 1568

11:00 AM

2:18-12437 Wardine Bridges

Chapter 7

#101.00 APPLICANT: Attorney for Trustee: Roquemore, Pringle and Moore, Inc.

Hearing re [52] & [53] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

9/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

Fees: \$15,363 approved [*See* Doc. No. 51]

Expenses: \$138 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

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11:00 AM

**CONT... Wardine Bridges**

**Chapter 7**

**Debtor(s):**

Wardine Bridges

Pro Se

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Toan B Chung



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2:18-12437 Wardine Bridges

Chapter 7

#102.00 APPLICANT: Trustee: Jason M Rund

Hearing re [52] & [53] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

9/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$3,550 [*see* Doc. No. 52]

Total Expenses: \$242.68 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

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11:00 AM

**CONT... Wardine Bridges**

**Chapter 7**

**Debtor(s):**

Wardine Bridges

Pro Se

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Toan B Chung

**United States Bankruptcy Court  
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Tuesday, September 22, 2020

Hearing Room 1568

11:00 AM

**2:20-10030 Genaro Martin Gonzalez Garcia and Krystal Gonzalez**

**Chapter 7**

**#103.00 APPLICANT:** Trustee: Heide Kurtz

Hearing re [22] & [23] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

9/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final):

Total Fees: \$506.75 [*see* Doc. No. 22]

Total Expenses: \$20.42 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

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11:00 AM

**CONT... Genaro Martin Gonzalez Garcia and Krystal Gonzalez**

**Chapter 7**

**Debtor(s):**

Genaro Martin Gonzalez Garcia

Represented By  
Ruben Fuentes

**Joint Debtor(s):**

Krystal Gonzalez

Represented By  
Ruben Fuentes

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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Central District of California  
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**Wednesday, September 23, 2020**

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**2:20-14515 Holly Wayne Roberson**

**Chapter 7**

**#1.00** HearingRE: [18] Motion for extension of time to file a complaint objecting to discharge Motion for Extension of Time to File Non-Dischargeability Complaint; Memorandum of Points and Authorities

Docket 18

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived. The Debtor shall direct potential overbidders, if any, to contact the above-referenced number prior to the hearing.**

For the reasons set forth below, the Trustee's Extension Motion is GRANTED and the Creditor's Extension Motion is GRANTED.

**Pleadings Filed and Reviewed**

1. Motion of the Chapter 7 Trustee to Extend Filing Deadline to Deny Debtor's Discharge Under 11 U.S.C. § 727 [Doc. No. 17] (the "Trustee's Extension Motion")
2. Motion of Creditor Strategic Funding Source, Inc. (the "Creditor") for Extension of Time to File Non-Dischargeability Complaint Under 11 U.S.C. § 523 [Doc. No. 18] (the "Creditor's Extension Motion" collectively, the "Extension Motions")
  - a. Notice of Errata Re: Motion for Extension of Time to File Dischargeability Complaint ("Notice of Errata") [Doc. No. 30]
  - b. Amended Motion of Creditor for Extension of Time to File Non-Dischargeability Complaint ("Amended Creditor's Extension Motion") [Doc. No. 35]
3. Notice of Opportunity to Request a Hearing on Creditor's Motion for Extension of Time to File Non-Dischargeability Complaint [Doc. No. 19]

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**CONT...**

**Holly Wayne Roberson**

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4. Declaration of Michael S. Myers in Support of Creditor's Motion for Extension of Time to File Non-Dischargeability Complaint [Doc. No. 20] ("Myers Decl.")
5. Request for Judicial Notice in Support of Creditor's Extension Motion ("Request for Judicial Notice") [Doc. No. 21]
6. Opposition to the Chapter 7 Trustee's Motion to Extend Filing Deadline to Deny Debtor's Discharge [Doc. No. 22] (the "Opposition to Trustee's Extension Motion")
7. Opposition to Creditor's Motion for Extension of Time to File Non-Dischargeability Complaint [Doc. No. 23] (the "Opposition to Creditor's Extension Motion" collectively, the "Oppositions")
8. Trustee's Response in Support of Motion to Extend Filing Deadline to Deny Debtor's Discharge [Doc. No. 29] (the "Trustee's Response")
9. Creditor's Response in Support of Motion for Extension of Time to File Non-Dischargeability Complaint [Doc. No. 32] (the "Creditor's Response" collectively, the "Responses")
10. Supplemental Declaration of Michael S. Myers in Support of Creditor's Motion for Extension of Time to File Non-Dischargeability Complaint [Doc. 31] ("Supplemental Myers Decl.")

## **I. Facts and Summary of Pleadings**

Holly Wayne Roberson (the "Debtor") filed this chapter 7 case on May 15, 2020 (the "Petition Date"). The first date set for the Debtor's § 341(a) Meeting of Creditors was June 23, 2020 (the "First Meeting"). A second § 341(a) Meeting of Creditors was held on August 4, 2020 (the "Second Meeting"). Accordingly, the deadline to deny the Debtor's discharge under § 727 or to object to the discharge under § 523 was August 24, 2020. A third § 341(a) Meeting of Creditors was held on August 25, 2020 (the "Third Meeting"). A fourth § 341(a) Meeting of Creditors is scheduled for September 23, 2020.

### **A. Summary of Trustee's Extension Motion**

On August 17, 2020, the chapter 7 trustee (the "Trustee") filed a timely motion to extend the time to object to entry of the Debtor's discharge pursuant to § 727 for 90 days, to November 24, 2020. The Trustee states that the Debtor's schedules indicate that he owns a corporation, an LLC, and used or continues to use at least four d/b/a's.

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In addition, the trustee states that at the two § 341(a) meetings, the Debtor provided "vague and confusing responses" about the aforementioned business entities. *See* Declaration of Edward M. Wolkowitz ("Wolkowitz Decl."). The Trustee has numerous other questions for the Debtor and argues that he has yet to unravel the entirety of the Debtor's financial affairs.

**B. Summary of Opposition to Trustee's Extension Motion**

On August 24, 2020, the Debtor filed a timely opposition to the Trustee's Extension Motion. The Debtor makes nine arguments as to why the Trustee's Extension Motion ought to be denied: 1) 90 days has now lapsed since the petition date; 2) the Debtor's business entities were disclosed on the original petition so the Trustee had ample time to investigate, and any subsequent amendments did not change the substance of the petition; 3) On July 20, 2020, the Debtor provided an amended schedule listing new business names, and on July 31, 2020, the Trustee told the Debtor that he did not have any further questions; 4) the Debtor, at the time of filing, already had two § 341(a) meetings and need not be subject to further questioning; 5) the Trustee did not apply for a Rule 2004 examination; 6) the Trustee failed to meet his burden as to why he was unable to complete his investigation prior to the original deadline; 7) the Trustee initially filed his Extension Motion using the event code "stipulation," when the motion was not stipulated to; 8) the Trustee incorrectly cited the relevant statute; and 9) the Trustee's Extension Motion lacks sufficient notice and hearing.

**C. Summary of Response in Support of Trustee's Extension Motion**

On September 8, 2020, the Trustee filed a timely response in support of his Extension Motion. The Trustee clarifies that the Debtor filed an amendment to his schedules on July 20, 2020, and it failed to clarify his business entanglements. In the first schedule, the Debtor listed his business entities as: "[1] DBA Holla Productions LLC; [2] DBA Simply Supportive Inc.; [3] DBA Mr and Ms Beauty Supply and Hair Studios; [4] DBA Simply Supportive Transportation." On July 20, 2020, the Debtor's amended schedules read as follows: "[1] Holla Productions LLC; [2] Simply Supportive Inc. d/b/a: [a] Mr & Ms. Beauty Supply and Hair Studios, [b] Supply Supportive Transportation, [c] Divine Design Hair and Waxing Studio, [d] Styling & Profiling Barber Shop." The Trustee alleges that, while he at one point did not have any further questions for the Debtor, upon further investigation he needs more time to

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complete his research. In addition, the Trustee held a third § 341(a) meeting on August 25, 2020 (one day after the deadline for filing a complaint objecting to the Debtor's discharge), but the Debtor continued to provide insufficient answers and the Trustee has further questions to complete his investigation.

**D. Summary of Creditor's Extension Motion**

Pre-petition, on January 9, 2019, the Creditor filed a lawsuit against the Debtor and Green and Roberson Partnership, d/b/a Mr. and Ms. Beauty Supply and Hair Studios. The lawsuit concerned two loans that the Creditor made to the Debtor and Mr. and Ms. Beauty Supply. In the loan agreements, the Debtor listed "Green and Roberson Partnership" as the borrower's legal name. On August 5, 2019, the Creditor obtained a default judgment for \$90,848.77 against the Debtor and Green and Roberson Partnership. *See Myers Decl.*

On August 19, 2020, the Creditor timely filed a motion to extend the time to file a non-dischargeability complaint pursuant to 11 U.S.C. § 523 for 90 days, to November 24, 2020. The Creditor argues that in the Debtor's petition, he listed Mr. and Ms. Beauty Supply and Hair Studios as a d/b/a; however, when the Debtor filed an amended petition, he stated that the legal name of Mr. and Ms. Beauty Supply and Hair Studios was "Simply Supportive Inc." The Statement of Information filed with the California Secretary of State for Simply Supportive Inc. does not list the Debtor as an officer or director of the company. The Creditor's Extension Motion contains substantially similar arguments to the Trustee's Extension Motion, notably that the Debtor provided "vague and evasive answers" at the § 341(a) meetings. In addition, the Creditor requested a copy of Debtor's most recent tax returns on August 7, 2020, but the Debtor did not provide them.

The Creditor also requests this court take judicial notice of 1) the January 9, 2019 verified complaint filed against Debtor and Green and Roberson Partnership, d/b/a Mr. and Ms. Beauty Supply and Hair Studios (the "State Court Complaint"); 2) the August 5, 2019 default judgment obtained against Debtor and Green and Roberson Partnership, d/b/a Mr. and Ms. Beauty Supply and Hair Studios (the "Default Judgment"); and 3) the Statement of Information for Simply Supportive Inc. filed with the California Secretary of State (the "Simply Supportive Statement of Information"). *See Request for Judicial Notice.*



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**E. Summary of Opposition to Creditor's Extension Motion**

On August 24, 2020, the Debtor filed a timely opposition to the Creditor's Extension Motion. The Debtor makes almost identical arguments against the Creditor's Extension Motion as he does to the Trustee's Extension Motion: 1) 90 days has now lapsed since the petition date; 2) the Debtor's business entities were disclosed on the Petition Date so the Creditor had ample time to investigate, and any subsequent amendments did not change the substance of the petition; 3) the Debtor, at the time of filing, already had two § 341(a) meetings and need not be subjected to further questioning; 4) the Creditor took 84 days to contact the Debtor; 5) the Creditor did not apply for a Rule 2004 examination; 6) the Creditor was 59 days late in requesting the Debtor's tax returns; 7) the Creditor failed to meet his burden as to why he was unable to complete his investigation prior to the original deadline; 8) the Creditor's claims are vague, ambiguous, and barred by claim preclusion; and 9) the Creditor's Extension Motion lacks sufficient notice and hearing.

**F. Summary of Response in Support of Creditor's Extension Motion**

On September 8, 2020, the Creditor filed a timely response in support of its extension motion. The Creditor notes, as the Trustee does in his Response, that the Debtor's amended schedules listed new business entities that were not originally mentioned. In addition, the Creditor argues that at the Second Meeting (approximately two weeks after the Debtor filed his amended schedules), the Debtor provided "vague and evasive testimony." At the most recent August 25, 2020 § 341(a) meeting, Debtor's counsel told the Creditor that he would be filing further amended schedules. *See* Supplemental Avery Decl. ¶ 16. In addition, on August 25, 2020, the Debtor provided a profit and loss statement for Simply Supportive that the Creditor alleges contains numerous inconsistencies and has created further questions for the Creditor.

The Creditor also argues that it had in fact been diligent in attempting to investigate; however, on more than one occasion, the Debtor's counsel failed to return phone calls and emails during the month of August while the Creditor was attempting to investigate.

As the Extension Motions, the Oppositions, and the Responses assert largely the same arguments and defenses, they will be considered together and, where they

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differ, the court will address the individual arguments.

## II. Findings of Fact and Conclusions of Law

### A. The Creditor's Request for Judicial Notice

Federal Rule of Evidence 201 allows a court to take judicial notice of facts that are not subject to reasonable dispute because they are either "(1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." *In re Blumer*, 95 B.R. 143, 147 (B.A.P. 9th Cir. 1988). Accordingly, the Court will take notice of the State Court Complaint, the Default Judgment, and the Simply Supportive Statement of Information.

### B. The Extension Motions

#### a. Legal Standard

Extensions of time to object to discharge are governed by Rule 4004(b) which provides, in relevant part:

#### (b) Extension of Time.

(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.

Fed. R. Bankr. P. 4004(b)(1).

Extensions of time to file a complaint under § 523 are governed by Rule 4007(c) which provides, in relevant part: "[o]n motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired." Fed. R. Bankr. P. 4007(c).

"[T]he cause for an extension [under Rule 4004] must be compelling and a creditor must show why it was not able to comply with the deadline as originally

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set.” *Willms v. Sanderson*, 723 F.3d 1094, 1104 (9th Cir. 2013) (quoting Collier on Bankruptcy ¶ 4007.04). In *Willms*, the plaintiffs moved to extend the deadline to file a complaint or to object to the discharge. *Id.* at 1098. The plaintiffs merely asserted that they needed additional time to “complete an investigation and evaluate whether or not a complaint objecting to discharge or a motion to dismiss is warranted.” *Id.* at 1104 (internal quotation marks omitted). There, however, the plaintiffs provided no reason why they could not have completed the investigation in a timely fashion. *Id.*

“Cause” at the very minimum, means “excusable neglect.” *Id.* at 1103 (quoting *Pioneer Inv. Servs. Co. v. Brunswick Assocs. LP*, 507 U.S. 380 (1993)). In determining what “excusable neglect” is, courts have used the *Dix* factors:

- (1) whether granting the delay will prejudice the debtor;
- (2) the length of the delay and its impact on efficient court administration;
- (3) whether the delay was beyond the reasonable control of the person whose duty it was to perform;
- (4) whether the creditor acted in good faith; and
- (5) whether clients should be penalized for their counsel's mistake or neglect.

*In re Dix*, 95 B.R. 134, 138 (B.A.P. 9th Cir. 1988).

*b. Discussion*

The Debtor makes numerous arguments in his Oppositions as to why he believes that cause does not exist. The Court will address each of these arguments in turn.

The Debtor’s first argument for finding that cause does not exist is that 90 days has now lapsed since the petition date. As discussed above, however, the both the Trustee and the Creditor timely filed their motions.

Similarly, the Debtor argues that because he has already sat through two § 341(a) meetings, at the time of filing, he cannot be compelled to provide any further information. Opposition to Trustee’s Extension Motion at 8. This is likewise an incorrect statement of the law and, so long as the court finds cause, the Extension Motions may be granted.

Next, the Debtor avers that notice of the Extension Motions by Local

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Bankruptcy Rule ("LBR") 9013-1(o) is incorrect because of "the gravity of the relief sought by Trustee's [m]otion." *Id.* at 15-17. LBR 9013-1(o)(2) sets forth the matters that "may not be determined upon notice of opportunity to request a hearing." Motions for extension of time to deny the discharge or to file a non-dischargeability complaint are not listed under that section. Furthermore, Debtor agrees that use of 9013-1(o)(1) in this instance is a "common practice." *Id.* at 15. Therefore, the Extension Motions will not be denied for use of LBR 9013-1(o) notice.

Next, the Debtor argues that Trustee mischaracterized his motion as "stipulation," which the Debtor claims is "inappropriate" and "troubling." *Id.* at 14. While it appears that the Trustee made a mistake in his original filing, the instant motion has not been stipulated to, was correctly re-filed, and the Debtor was properly provided an opportunity to object.

The Debtor's next argument is that the Debtor provided amended schedules to the Trustee on July 20, 2020, and on July 31, 2020, the Trustee emailed the Debtor to say he did not have any further questions. The email in question states: "Compliance received, thank you . . . [t]he trustee has no additional questions . . ." *Id.* at 5. After July 31, 2020, two subsequent § 341(a) meetings were held, at which point the Trustee could have formed further questions about the Debtor's businesses. At the Third Meeting on August 25, 2020, the Debtor agreed to let the Creditor have a copy of the profit and loss statement for Simply Supportive to review [**Note 1**]. The Creditor notes that the profit and loss statement contains concerning information, such as private funeral expenses and wages paid to two individuals who provided questionable benefit to the company. That the Trustee at one point had no further questions for the Debtor is not dispositive of the issue, and it appears that new issues have arisen regarding the business entanglements and d/b/a's.

The Debtor also alleges that because the Trustee cited the incorrect rule in his Extension Motion (Rule 3007(b) instead of 4004(b)), the Trustee's Extension Motion ought to be denied. *Id.* at 11-12. In addition, the Debtor argues that because the Creditor cited the incorrect subsection in its Extension Motion (Rule 4007(d) instead of Rule 4007(c)), its motion ought to be denied as well. Opposition to Creditor's Extension Motion at 11. The court will not deny a motion for a scrivener's error when the Debtor is sufficiently on notice. Furthermore, the Creditor filed a Notice of Errata and Amended Creditor's Extension Motion fixing the minor error.

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The Debtor then argues that the Creditor's Extension Motion may be barred by claim preclusion [Note 2]. Opposition to Creditor's Motion at 10-11. His argument is based upon the assertion that, because the Creditor only sued for breach of contract claims in the state proceeding, the Creditor is now barred from bringing any causes of action for fraud, false representation, and the like. As the Supreme Court in *Brown v. Felsen* makes clear, however, failure to bring a fraud claim in state court does not preclude the creditor from alleging fraud when attempting to recover a debt in a subsequent bankruptcy proceeding. 442 U.S. 127, 137-38 (1979). Indeed, the Ninth Circuit has noted that pursuing fraud claims purely to protect them for future litigation would subject all parties to "additional litigation expense." *In re Daley*, 776 F.2d 834 (9th Cir. 1985). Therefore, this court finds that the Creditor's claims are not barred by claim preclusion simply because it did not seek to pursue claims of fraud against the Debtor in state court.

Next, the Debtor argues that cause does not exist to grant the Creditor's Extension Motion when the Creditor was 59 days late in requesting the Debtor's tax returns. *Id.* at 9, 12. While perhaps the Creditor could have requested the returns sooner, this alone does not prove that the Creditor was so lacking in diligence as to require the court to deny its motion. As discussed below, both parties appear to have been sufficiently diligent in their attempts to investigate the Debtor's business entanglements.

The remainder of the Oppositions argue, in short, that no cause exists for an extension of the deadline because the Trustee and the Creditor had ample time to complete their investigations, have provided little explanation as to why they could not finish the investigation in the allotted time, have not applied for a Rule 2004 examination, and the businesses in question were listed on the original petition. While it is true that neither the Trustee nor the Creditor have applied for a Rule 2004 examination, it is evident that sufficient cause exists for an extension.

In applying the *Dix* factors under the more liberal definition of "excusable neglect" to the remaining arguments, the court finds that the factors weigh in favor of granting the Extension Motions.

First, the Debtor filed his petition on May 15, 2020. The instant Extension Motions are the first extension motions in this discharge case. As such, it does not appear that a short 90 day delay will significantly prejudice the Debtor. At the Third

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Meeting, the Debtor told the Creditor that he would be filing further amended schedules, but has yet to do so. As such, a short extension appears to be in order.

Second, as discussed above the extension is short and appears to be necessary in order to achieve a better understanding of the Debtor's businesses. As such, the administration of this case would benefit from an extension.

Third, it is evident that the delay was "beyond the reasonable control of the person whose duty it was to perform." 95 B.R. at 138. After the First Meeting on June 23, 2020, both the Trustee and the Creditor noted that the Debtor had provided "vague and confusing" answers to questions about his businesses. Wolkowitz Decl. ¶ 3; Creditors Extension Motion at 2-3. On July 20, 2020, the Trustee received updated schedules that listed multiple new business entities that the Debtor was a part of. *See* Addendum to Voluntary Petition [Doc. No. 10]. The Debtor claims that these businesses are simply d/b/a's; however, neither the Trustee nor the Creditor appear to have been able to decipher whether that is true at this stage. In addition, at the Second Meeting on August 5, 2020, the Trustee alleges that the Debtor further provided "vague and confusing responses about his various business ventures." At the Third Meeting on August 25, 2020, the Creditor notes that the Debtor's counsel informed them that the Debtor would be filing further amended schedules. Avery Decl. ¶ 16. The Debtor has yet to file any additional amended schedules. In addition, the Creditor received the profit and loss statement for Simply Supportive on August 25, 2020. The Creditor contends that there are irregularities and concerning issues in that statement, such as why private funeral expenses for \$11,000 were billed to the company, and what value two employees provided for \$55,000. Creditor's Response at 2. A fourth § 341(a) meeting is now scheduled for September 22, 2020. Furthermore, the Creditor notes that, while it may have been late in requesting Debtor's tax returns, it contacted the Debtor's counsel more than once with no response in the month of August as it was trying to conclude its investigation. *See* Supplemental Avery Decl. ¶¶ 5-9. Therefore, the Court finds that the third factor also weighs in favor of granting the Extension Motions.

Fourth, while the Creditor could have procured the tax records earlier and the Trustee could have perhaps formulated his concerns to the Debtor after receiving the updated schedules and before the Second Meeting, it appears that both the Trustee and the Creditor have acted in good faith. Finally, a short extension will not penalize the Debtor significantly.

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### III. Conclusion

For the reasons set forth above, the Trustee's Extension Motion is GRANTED and the Creditor's Extension Motion is GRANTED.

The Trustee and the Creditor are directed to lodge conforming proposed orders, incorporating the tentative ruling by reference, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** It is worth noting that the Trustee had the profit and loss statement prior to the Third Meeting. However, at the Third Meeting the Debtor agreed to allow the Creditor to have a copy for review.

**Note 2:** A successful claim preclusion defense requires: "(1) an identity of claims, (2) a final judgment on the merits, and (3) privity between parties." *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency*, 322 F.3d 1064, 1077 (9th Cir. 2003) (quoting *Stratosphere Litig. L.L.C. v. Grand Casinos, Inc.* 298 F.3d 1137, 1143 n.3 (9th Cir. 2002)). This theory is not germane to any argument made by the Debtor and, in any event, the Debtor's argument is precluded by both *Brown v. Felson*, 442 U.S. 127 (1979), and *In re Daley*, 776 F.2d 834 (9th Cir. 1985).

<b>Party Information</b>
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**Debtor(s):**

Holly Wayne Roberson

Represented By  
David H Chung

**Trustee(s):**

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Edward M Wolkowitz (TR)

Pro Se



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**2:20-14515 Holly Wayne Roberson**

**Chapter 7**

**#2.00** HearingRE: [17] Motion for extension of time to file a complaint objecting to discharge Chapter 7 Trustee's Motion to Extend Objection to Discharge Date; Notice of Motion; Memorandum of Points and Authorities and Declaration in Support Thereof with Proof of Service (Stipulation) (Wolkowitz (TR), Edward)

Docket 17

**Tentative Ruling:**

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See calendar number 1, incorporated by reference in full.

**Party Information**

**Debtor(s):**

Holly Wayne Roberson

Represented By  
David H Chung

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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**2:20-15845 Tariq Allah El Shabazz**

**Chapter 7**

**#3.00 Show Cause Hearing**  
RE: [13] Why Case Should Not Be Dismissed Because Of Debtor's Failure To Pay The Filing Fee In Installments. 9/23/20 at 10:00 a.m. (BNC-PDF) (Related Doc # 8 )

Docket 13

**\*\*\* VACATED \*\*\* REASON: INSTALLMENTS PAID IN FULL 8/10/20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Tariq Allah El Shabazz	Pro Se
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**Trustee(s):**

John P Pringle (TR)	Pro Se
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#4.00** Hearing re [5098] re [5547] Objection to Claim by Claimant Raquel Joseph, Claim No. 6194. in the amount of \$ 57,364,623

Docket 0

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Claim Objection is **SUSTAINED** and Claim 6194 is **DISALLOWED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Motion to Disallow Claim No. 6194 Filed by Raquel Joseph [Doc. No. 5098] (the "Claim Objection")
  - a) Notice of Rescheduled Hearing on Debtors' Motion to Disallow Claim No. 6194 Filed by Raquel Joseph [Doc. No. 5547]
  - b) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5547 and 5548 [Doc. No. 6061]
- 2) No opposition to the Claim Objection is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). Doc. No. 5504.

On April 1, 2019, Raquel Joseph (the "Claimant") filed Proof of Claim No. 6194

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("Claim 6194"). Claim 6194 seeks a recovery in the amount of \$57,364,623. The basis for the claim is "pension plan + John Hancock + PTO."

The Debtors argue that Claim 6194 should be disallowed for the following reasons:

- 1) The claim does not include any supporting documents evidencing the validity of the indebtedness alleged.
- 2) The Claimant's pension-related claims are already covered by the proof of claim filed by the Pension Benefit Guaranty Corporation (the "PBGC"), and should be disallowed as duplicative.
- 3) The Claimant's claim for paid time off will be honored in the ordinary course of business pursuant to the Debtors' policies.

No opposition to the Claim Objection is on file.

## **II. Findings and Conclusions**

A proof of claim is entitled to a presumption of prima facie validity, but only if it is filed in accordance with the requirements of the Bankruptcy Rules. Bankruptcy Rule 3001(f). Where a claim is based upon a writing, the "original or a duplicate [of the writing] shall be filed with the proof of claim." Bankruptcy Rule 3001(c).

Here, Claim 6194 is not entitled to a presumption of prima facie validity because it does not include any writings evidencing the Debtors' obligations arising in connection with paid time off, a pension plan, or a John Hancock policy.

Even if Claim 6194 did include appropriate documentation, it would still be appropriately disallowed as duplicative. To the extent the claim is based upon pension plan obligations, the Plan provides for the treatment of the Debtors' pension plan obligations. To the extent the claim is for paid time off, the Court has authorized the Debtors to pay pre-petition claims for paid time off up to the statutory maximum, and has further authorized employees to use post-petition all pre-petition paid time off in the ordinary course of business. Doc. No. 75. Therefore, the Claimant's claim for paid time off has already been satisfied.

Based upon the foregoing, the Claim Objection is **SUSTAINED** and Claim 6194 is **DISALLOWED** in its entirety. The Debtors shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel

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Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**2:18-20151 Verity Health System of California, Inc.**

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**#5.00** Hearing re [5099] and [5548] Objection to Claim by Claimant Doris Thompson, Claim No. 8085. in the amount of \$ 50,000,000

Docket 0

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Claim Objection is **SUSTAINED** and Claim 8805 is **DISALLOWED** in its entirety.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Motion to Disallow Claim No. 8085 Filed by Doris Thompson Against Verity Health System of California, Inc. (Case No. 2:18-bk-20151-ER) [Doc. No. 5099] (the "Claim Objection")
  - a) Notice of Rescheduled Hearing on Debtors' Motion to Disallow Claim No. 8085 Filed by Doris Thompson Against Verity Health System of California, Inc. (Case No. 2:18-bk-20151-ER) [Doc. No. 5548]
  - b) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5547 and 5548 [Doc. No. 6061]
- 2) No opposition to the Claim Objection is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee*. Doc. No. 5504.

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On April 1, 2019, Doris Thompson (the "Claimant") filed Proof of Claim No. 5551 ("Claim 5551"). Claim 5551 sought a recovery in the amount of \$50 million against Debtors VHS and St. Vincent Medical Center. The basis for Claim 5551 was "sodomized, (2) rapes, unknown surgery and unlawful surgery, given Drugs in I.V. I seen the Doctors involved." On February 27, 2020, the Court entered an order disallowing Claim 5551 in its entirety. Doc. No. 4171 (the "Previous Disallowance Order"). Claimant has not appealed the Previous Disallowance Order.

On April 27, 2020, Claimant filed Proof of Claim No. 8805 ("Claim 8805"), which seeks recovery in the amount of \$50 million, based upon the same allegations asserted in Claim 5551.

The Debtors move to disallow Claim 8805. Debtors argue that Claim 8805 should be disallowed for the following reasons:

- 1) Claim 8805 is an attempt to reassert Claim 5551, which has been disallowed by a final and non-appealable order. Claim 8805 is barred by *res judicata*.
- 2) Claim 8805 was filed more than a year subsequent to the claims bar date, and is therefore forever barred.
- 3) Claim 8805 is not well pleaded and is not sufficient to state a viable and legally recognized cause of action, and therefore should be disallowed under Civil Rule 12(b)(6) or its state law equivalent.

No opposition to the Claim Objection is on file.

## **II. Findings and Conclusions**

Under Bankruptcy Rule 3001(f), a proof of claim executed and filed in accordance with the Bankruptcy Rules constitutes prima facie evidence of the validity and amount of the claim. To overcome the presumption of validity created by a timely-filed proof of claim, an objecting party must do one of the following: (1) object based on legal grounds and provide a memorandum of points and authorities setting forth the legal basis for the objection; or (2) object based on a factual ground and provide sufficient evidence (usually in the form of declarations under penalty of perjury) to create triable issues of fact. *Durkin v. Benedor Corp. (In re G.I. Indus., Inc.)*, 204 F.3d 1276, 1280 (9th Cir. BAP 2000); *United States v. Offord Finance, Inc. (In re Medina)*, 205 B.R. 216, 222 (9th Cir. BAP 1996); *Hemingway Transport, Inc. v. Kahn (In re Hemingway Transport, Inc.)*, 993 F.2d 915, 925 (1st Cir. 1993). Upon objection, a proof of claim provides "some evidence as to its validity and amount" and is "strong enough to carry over a mere formal objection without more." *See Lundell v.*

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*Anchor Constr. Spec., Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000) (citing *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991)). An objecting party bears the burden and must "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Holm*, 931 F.2d at 623. When the objector has shown enough evidence to negate one or more facts in the proof of claim, the burden shifts back to the claimant to prove the validity of the claim by a preponderance of evidence. See *Lundell*, 223 F.3d at 1039 (citation omitted).

Claim 5551 and Claim 8805 are both based upon the Claimant's allegations that she was subjected to abuse while receiving treatment at St. Vincent Medical Center. The order disallowing Claim 5551 is now final and non-appealable. Claim 8805 is an improper attempt to reassert Claim 5551, which is barred by the doctrine of *res judicata*. *United States v. Liquidators of European Fed. Credit Bank*, 630 F.3d 1139, 1151 (9th Cir. 2011) ("*[r]es judicata* bars relitigation of all grounds of recovery that were asserted, or could have been asserted, in a previous action between the parties, where the previous action was resolved on the merits").

In addition, Claim 8805 was filed more than one year subsequent to the claims bar date. The untimely filing of Claim 8805 is a further ground for disallowance.

Based upon the foregoing, the Claim Objection is **SUSTAINED** and Claim 8805 is **DISALLOWED** in its entirety. The Debtors shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron



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Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#6.00** HearingRE: [5563] Motion to Reject Lease or Executory Contract / Debtors' Notice of Motion and Eighth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(A), Certain Rental Contracts and Equipment Leases; Memorandum of Points and Authorities and Declaration of Richard G. Adcock

Docket 5563

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Debtors' Notice of Motion and Eighth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Rental Contracts and Equipment Leases [Doc. No. 5563] (the "Motion")
  - a) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 5563, 5565, 5567 and 5568 [Doc. No. 6082]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' Chapter 11 cases are being jointly administered.

The Debtors move for authorization to reject rental contracts and equipment leases (the "Agreements") to which Seton Medical Center ("Seton"), St. Francis Medical Center ("SFMC"), or VHS are a party. Much of the equipment that was the subject of the Agreements is now being leased to the buyer of SFMC or Seton under a

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new or restated lease agreement. Alternatively, the equipment has already been returned or is in the process of being returned to the lessor. Debtors state that the Agreements provide no further benefit to the Debtors' bankruptcy estates in view of the sale of Seton and SFMC.

No opposition to the Motion is on file.

## **II. Findings and Conclusions**

Section 365(a) provides that the Debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. *See Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Castetter*, 184 F.3d 1040, 1043 (9th Cir.1999); *see also In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreements. The Agreements provide no benefit to the estates in view of the sales of Seton and SFMC. Rejection of the Agreements shall be effective as of August 14, 2020, the day after the closing date of the SFMC and Seton sales.

The deadline for counterparties to the Agreements to file a proof of claim arising from the rejection of the applicable Agreement, pursuant to Bankruptcy Rule 3002(c) (4), shall be **October 30, 2020** (the "Rule 3002(c)(4) Claims Bar Date"). Debtors

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by counterparties no later than **October 2, 2020**. Debtors shall file a proof of service of such notice by no later than **October 2, 2020**.

The deadline for equipment lessors who have not entered into new or restated lease agreements with the buyers of Seton and SFMC to retrieve equipment located at Seton and SFMC shall be **September 30, 2020** (the "Retrieval Deadline"). The Debtors shall provide notice of the Retrieval Deadline so that it is actually received by the equipment lessors by no later than **September 24, 2020**. Debtors shall file a proof of service of such notice by no later than **September 24, 2020**. Equipment lessors shall coordinate with the Debtors' personnel with respect to the retrieval of their equipment. **[Note 1]** Any equipment not retrieved by the Retrieval Deadline shall be deemed abandoned to the estates.

Based upon the foregoing, the Motion is **GRANTED**. Within seven days of the hearing, the Debtors shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Equipment lessors should contact Terri Pasion ([TerriPasion@verity.org](mailto:TerriPasion@verity.org)) to arrange for the pickup of equipment located at SFMC and Mark Feltt ([MarkFeltt@verity.org](mailto:MarkFeltt@verity.org)) to arrange for the pickup of equipment located at Seton.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy  
Brigette G McGrath  
Gary D. Underdahl  
Nicholas C Brown  
Anna Kordas

**Movant(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy  
Brigette G McGrath  
Gary D. Underdahl  
Nicholas C Brown  
Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10264 450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

**#7.00** Hearing  
RE: [134] Debtor's Third Motion For Order Authorizing Use Of Cash Collateral  
From July 5, 2020 Through And Including October 3, 2020

fr. 7-1-20

Docket 134

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 9-21-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By  
Aram Ordubegian  
Christopher K.S. Wong  
M Douglas Flahaut

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-15098 Phachira Ketkaew**

**Chapter 7**

Adv#: 2:19-01252 Jittanoon et al v. Ketkaew

- #8.00** HearingRE: [32] Motion for Order: (1) Continuing Trial and All Related Dates and Deadlines; (2) Compelling Further, Complete Responses to and Production in Connection with Requests for Production, Requests for Admission and Interrogatories; (3) Striking Defendants Answer to Complaint and Entering Her Default; (4) Awarding Plaintiffs Monetary Sanctions Against Defendant in The Amount Of \$3,960;Declaration Of Molly K. Madden In Support Thereof

Docket 32

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Court will strike Defendant's Answer and enter Defendant's default. Plaintiffs' requests to compel further discovery responses and to continue the trial date are **DENIED** as moot.

**Pleadings Filed and Reviewed:**

- 1) Notice of Motion and Motion for Orders: (1) Continuing Trial and All Related Dates and Deadlines; (2) Compelling Further, Complete Responses to and Production in Connection with Requests for Production, Requests for Admission and Interrogatories; (3) Striking Defendant's Answer to Complaint and Entering Her Default; (4) Awarding Plaintiffs Monetary Sanctions Against Defendant in the Amount of \$3,960 [Doc. No. 32] (the "Motion")
  - a) Declaration of Molly K. Madden Re Pretrial Stipulation [Doc. No. 33]
  - b) Plaintiff's Notice of Non-Opposition [Doc. No. 37]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT... Phachira Ketkaew**

**Chapter 7**

Peera Jittanoon and Preda Jittanoon (“Plaintiffs”) move for entry of an order striking the Answer of Pachira Ketkaew (“Defendant”) and entering Defendant’s default. In the alternative, Plaintiffs seek orders continuing the trial of this action and compelling Defendant to respond to discovery. Plaintiffs also seek discovery sanctions against Defendant in the amount of \$3,960. No opposition to the Motion is on file.

On August 2, 2019, Plaintiffs commenced this dischargeability action against Defendant. Among other things, Plaintiffs allege that Defendant fraudulently induced Plaintiffs to invest funds in a restaurant and then subsequently shut Plaintiffs out of the business while retaining all profits for herself.

Defendant is a *pro se* litigant who does not speak English fluently. Early in the litigation, Defendant requested that all correspondence be directed to Francis Tsai, whom Defendant has designated as her translator.

On February 11, 2020, Plaintiffs, Defendant, and Defendant’s translator +had a lengthy telephonic discussion regarding discovery. Defendant, through her translator, agreed to provide amended and supplemental discovery responses. Defendant did not provide the amended and supplemental responses.

On June 22, 2020, Plaintiffs communicated with Tsai regarding Defendant’s failure to provide the amended and supplemental discovery responses. On behalf of Defendant, Tsai responded: “She does not want to continue to contest the bk case anymore.” Plaintiffs responded as follows: “I don’t know what that means. Is she not getting us the rest of the documents? Will she refuse to appear for her deposition? Will she refuse to appear for mediation? Or trial?” Through Tsai, Defendant responded: “Yes.”

On July 28, 2020, Plaintiffs requested that Defendant agree to entry of a stipulated judgment. Through Tsai, Defendant responded “[y]ou may proceed with a default judgment.” Defendant did not respond to Plaintiffs’ follow-up requests that Defendant execute a stipulated judgment. Defendant likewise did not respond to Plaintiffs’ follow-up requests that Defendant stipulate to the striking of her Answer and the entry of default.

Plaintiffs request that the Court strike Defendant’s Answer and enter her default. In the alternative, Plaintiffs request that Defendant be ordered to serve complete responses to Plaintiffs’ discovery requests. Plaintiffs request that Defendant be sanctioned in the amount of \$3,960 for failing to adequately respond to discovery.

## **II. Findings and Conclusions**

### **A. The Court Will Strike Defendant’s Answer and Enter Defendant’s Default**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT... Phachira Ketkaew**

**Chapter 7**

Through her translator, Defendant has stated that she will not respond to discovery, will not appear for her deposition, will not appear at trial, and that Plaintiffs should proceed with default judgment. Based on these statements, the Court finds that Defendant has no intention of fulfilling her responsibilities in connection with this litigation. The Court will strike Defendant's Answer and enter Defendant's default.

To impose case dispositive sanctions, the Court is "required to consider whether the ... noncompliance involved willfulness, fault, or bad faith, and also to consider the availability of lesser sanctions." *R & R Sails*, 673 F.3d at 1247 (internal citations omitted). When imposing case-dispositive sanctions, the Court must consider the following factors:

- 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 who has litigated diligently;
- 4) the public policy favoring the disposition of cases on their merits; and
- 5) the availability of less drastic sanctions.

*Moneymaker v. CoBEN (In re Eisen)*, 31 F.3d 1447, 1451 (9th Cir. 1994); *see also Hester v. Vision Airlines, Inc.*, 687 F.3d 1162, 1169 (9th Cir. 2012) (applying the *Eisen* factors to determine whether it was appropriate for a court to strike a pleading and enter default).

There are three sub-parts to the fifth factor, the availability of less drastic sanctions: "whether the court has considered lesser sanctions, whether it tried them, and whether it warned the recalcitrant party about the possibility of case-dispositive sanctions." *Connecticut Gen. Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d 1091, 1096 (9th Cir. 2007). The application of these factors is not mechanical; instead, the factors provide the Court "with a way to think about what to do, not a set of conditions precedent for sanctions or a script that the [Court] must follow." *Id.*

As set forth below, application of the *Eisen* factors supports the imposition of terminating sanctions.

1. Public's Interest in Expeditious Resolution of Litigation

Defendant has failed to furnish complete responses to discovery, even after being provided multiple extensions by Plaintiffs. Defendant has expressly stated that she has no intention of providing discovery responses or of continuing to participate in the litigation.

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CONT... Phachira Ketkaew

Chapter 7

Defendant's actions have impeded the expeditious resolution of this action. As the Ninth Circuit has explained, "[t]he public's interest in expeditious resolution of litigation always favors" the imposition of sanctions. *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002). This factor supports the imposition of terminating sanctions.

2. The Court's Need to Manage its Docket

Courts have the "power to manage their dockets without being subject to the endless vexatious noncompliance of litigants ...." *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992), *as amended* (May 22, 1992). As discussed above, Defendant's failure to fulfill her litigation responsibilities has impeded the expeditious resolution of this action, and has consequently placed an additional burden upon the Court's docket. This factor supports the imposition of terminating sanctions.

3. The Risk of Prejudice to the Diligent Party

A diligent party suffers prejudice if the noncompliant party's actions impair the diligent party's "ability to go to trial or threaten to interfere with the rightful decision of the case." *In re Phenylpropanolamine (PPA) Prod. Liab. Litig.*, 460 F.3d 1217, 1227 (9th Cir. 2006).

Defendant has failed to furnish complete responses to Plaintiffs' discovery requests. She has also stated that she has no intention of appearing for her deposition. Defendant's refusal to participate in the litigation makes it very difficult for Plaintiffs to prepare for trial. This factor supports the imposition of terminating sanctions.

4. The Public Policy Favoring the Disposition of Cases on Their Merits

Normally, "the public policy favoring disposition of cases on their merits strongly counsels against dismissal." *In re PPA Prods.*, 460 F.3d at 1228. However, "a case that is stalled or unreasonably delayed by a party's failure to comply with deadlines and discovery obligations cannot move forward toward resolution on the merits." *Id.* This factor therefore "lends little support" to a party "whose conduct impedes progress in that direction." *Id.* (citations and quotations omitted). In other words, parties have a responsibility "to refrain from dilatory and evasive tactics." *Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 652 (9th Cir. 1991).

Defendant has stated that she does not intend to contest this action, respond to discovery, or appear for a deposition, and that Plaintiffs should proceed with a motion for default judgment. Defendant has not filed any papers opposing the instant Motion. Since Defendant has made it clear that she does not intend to participate in the litigation, this factor supports the imposition of terminating sanctions.

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Los Angeles  
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CONT... Phachira Ketkaew

Chapter 7

5. The Availability of Less Drastic Sanctions

The Court finds that less drastic sanctions would not adequately remediate Defendant's failure to fulfill her obligations in connection with this litigation. Defendant has stated that she does not intend to contest this action and that she will not respond to discovery or appear for a deposition. She has stated that Plaintiffs should proceed with a motion for default judgment, and has not filed any papers opposing the instant Motion. Defendant has made it abundantly clear that she would rather accept the entry of judgment against her than continue to defend the action. Under these circumstances, it is pointless for the Court to attempt to force Defendant to litigate the action on the merits through the imposition of sanctions. This factor supports the imposition of terminating sanctions.

Based upon the foregoing, the Court will strike Defendant's Answer and enter Defendant's default. By no later than **October 23, 2020**, Plaintiff shall file a Motion for Default Judgment. The Motion for Default Judgment shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o), and shall be served upon the Defendant.

**B. Plaintiffs' Motion to Compel Defendant to Respond to Discovery is Denied as Moot**

In view of the striking of Defendant's Answer and the entry of Defendant's default, Plaintiffs' request for entry of an order compelling Defendant to provide supplemental discovery responses is **DENIED** as moot.

Plaintiffs request an award of attorneys' fees in the amount of \$3,960 as compensation for the cost of preparing the Motion, pursuant to Civil Rule 37(a)(5). Because the Court has denied as moot Plaintiffs' motion to compel discovery, Plaintiffs are not entitled to a fee award under Civil Rule 37(a)(5).

Nor are Plaintiffs entitled to attorneys' fees under Civil Rule 37(b)(2)(A)(iii). Rule 37(b)(2)(A)(iii) authorizes the Court to strike Defendant's Answer, but only if Defendant failed to obey an order to provide or permit discovery. Here, the Court has not issued any orders compelling Defendant to respond to discovery. Although the Court is striking Defendant's Answer, that sanction is based upon Defendant's refusal to participate in the litigation, not upon Defendant's failure to obey a specific order regarding discovery.

Plaintiffs' request for an order continuing the trial date is also **DENIED** as moot.

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Los Angeles  
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CONT... Phachira Ketkaew

Chapter 7

**III. Conclusion**

Based upon the foregoing, the Court will strike Defendant's Answer and enter Defendant's default. Plaintiffs' requests to compel further discovery responses and to continue the trial date are **DENIED** as moot. Plaintiffs shall file a Motion for Default Judgment by no later than **October 23, 2020**. The Motion for Default Judgment shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o), and shall be served upon the Defendant.

The Court will prepare and enter an order striking Defendant's Answer and entering Defendant's default.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Phachira Ketkaew

Represented By

Jarintorn Tanatchasai

**Defendant(s):**

Phachira Ketkaew

Pro Se

**Plaintiff(s):**

Peera Jittanoon

Represented By

Ian Landsberg

Preda Jittanoon

Represented By

Ian Landsberg

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01377 Packaging Corporation of America v. Bonert et al

**#9.00** Status Conference re: Collection Actions re: Notice of Removal of Civil Action to United States Bankruptcy Court. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer))

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20

Docket 1

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert Chapter 11**

Bonert's Incorporated dba Bonert's	Pro Se
Bonert Management Company, Inc.	Represented By Lawrence M Jacobson
Bonert's Jadahasa, LLC	Represented By Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Packaging Corporation of America	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01378 Coastal Carriers, LLC v. Bonert et al

**#10.00 Status Hearing**

re: Collection Actions [1] Adversary case 2:19-ap-01378. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan)

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20

Docket 1

**Tentative Ruling:**

9/22/2020

See Cal. No. 9, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, September 23, 2020**

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10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Coastal Carriers, LLC	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

**#11.00** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01406. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20

Docket      1

**Tentative Ruling:**

9/22/2020

See Cal. No. 9, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert Chapter 11**

Bonert Management Company, Inc. Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC Represented By  
Lawrence M Jacobson

Bonert's MV, LLC Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC Represented By  
Lawrence M Jacobson

Beefam, LLC Represented By  
Lawrence M Jacobson

3144 Bonert's LLC Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive Pro Se

**Joint Debtor(s):**

Vivien Bonert Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#12.00** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01405. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20

Docket 1

**Tentative Ruling:**

9/22/2020

See Cal. No. 9, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

**CONT... Michael Bonert Chapter 11**

Bonert Management Company, Inc.	Represented By Lawrence M Jacobson
Bonert's Jadasaha, LLC	Represented By Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon, LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson
DOES 1 through 10, inclusive	Pro Se
Beefam, LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Capitol Distribution Company, LLC	Represented By Sean Lowe Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-25543 Norlaine, Inc,**

**Chapter 7**

**#100.00 APPLICANT:** Trustee - David M. Goodrich

Hearing re [118] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$16,359.78 [*see* Doc. No. 117]

Total Expenses: \$450.28 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Norlaine, Inc,**

**Chapter 7**

**Party Information**

**Debtor(s):**

Norlaine, Inc,

Represented By  
James R Selth

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Leonard M Shulman  
Brandon J Iskander  
Lynda T Bui

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Hearing Room 1568**

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**2:17-25543 Norlaine, Inc,**

**Chapter 7**

**#101.00** Other State or Local Taxes (post-petition) - Franchise Tax Board (ADMINISTRATIVE)

Hearing re [118] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

9/22/2020

See calendar number 100, incorporated by reference in full.

**Party Information**

**Debtor(s):**

Norlaine, Inc,

Represented By  
James R Selth

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Leonard M Shulman  
Brandon J Iskander  
Lynda T Bui

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, September 23, 2020**

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11:00 AM

**2:17-25543 Norlaine, Inc,**

**Chapter 7**

**#102.00** APPLICANT: Attorney for Trustee Fees (Other Firm) - Shulman Hodges & Bastian, LLP

Hearing re [118] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$45,098 approved [*See* Doc. Nos. 110 & 113]

Expenses: \$9,884.31 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**



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**CONT... Norlaine, Inc,**

**Chapter 7**

**Debtor(s):**

Norlaine, Inc,

Represented By  
James R Selth

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Leonard M Shulman  
Brandon J Iskander  
Lynda T Bui

**United States Bankruptcy Court  
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11:00 AM

2:17-25543 Norlaine, Inc,

Chapter 7

#103.00 APPLICANT: Accountant for Trustee Fees (Other Firm) - LEA Accountancy, LLP  
Hearing re [118] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$21,452 approved [*See* Doc. No. 111]

Expenses: \$587.14 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

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11:00 AM

**CONT... Norlaine, Inc,**

**Chapter 7**

**Debtor(s):**

Norlaine, Inc,

Represented By  
James R Selth

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Leonard M Shulman  
Brandon J Iskander  
Lynda T Bui

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Wednesday, September 23, 2020

Hearing Room 1568

11:00 AM

**2:19-21148 Efren Zavala and Maria Padilla**

**Chapter 7**

**#104.00** HearingRE: [48] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Chapter 7 Trustee's Motion for Order (1) Authorizing Sale of Real Property, Free and Clear of Liens, Claims, and Interests, Subject to Overbid; (2) Authorizing Payment of Liens, Costs, Brokers' Commissions and Debtors' Homestead Through Escrow; and (3) Requiring Debtors to Vacate, Turn over Possession of, and Remove Personal Property From, the Property; Declarations of Wesley H. Avery, Brian Parsons, and Charles Shamash in Support Thereof; with proof of service. (Caceres, Joseph)

Docket 48

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived. The Debtor shall direct potential overbidders, if any, to contact the above-referenced number prior to the hearing.**

For the reasons set forth below, the Sale Motion is GRANTED. The Court will conduct the sale auction in accordance with the procedures set forth below.

**Key Sale Terms:**

- 1) Proposed purchaser: Journey Investments, Inc.
- 2) Property for sale: 22745 Fries Avenue, Carson, California 90745
- 3) Purchase price: \$540,000
- 4) Overbids: the minimum overbid amount shall be \$545,000. Subsequent overbids shall be in increments of \$5,000

**Pleadings Filed and Reviewed**

- 1) Trustee's Motion for Order (1) Authorizing Sale of Real Property, Free and Clear of Liens, Claims, and Interests, Subject to Overbid; (2) Authorizing Payment of Liens, Costs, Brokers' Commissions and Debtors' Homestead Through Escrow; and (3) Requiring Debtors to Vacate, Turn Over Possession

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CONT...

**Efren Zavala and Maria Padilla**

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of, and Remove Personal Property From the Property; Declarations of Wesley H. Avery, Brian Parsons, and Charles Shamash in Support Therefor [Doc. No. 48] (the "Sale Motion")

- 2) Notice of Hearing on [the Sale Motion] [Doc. No. 49]
- 3) Notice of Sale of Estate Property [Doc No. 50]
- 4) Application to Employ Keller Williams Realty [Doc. No. 35]
- 5) Order Granting Application to Employ Keller Williams Realty [Doc. No. 45]
- 6) As of the preparation of this tentative ruling, no opposition is on file

## **I. Facts and Summary of Pleadings**

Efren Zavala and Maria Padilla (the "Debtors") filed a voluntary chapter 7 petition on September 20, 2019. The Debtors own real property located at 22745 Fries Avenue, Carson, California, 90745 (the "Property"). The Property was scheduled at an alleged value of \$507,300 with a first-priority lien held by Nations Direct Mortgage ("Nations Direct") which originally secured indebtedness in the amount of \$251,400. Based on the most current mortgage payoff statement, the amount due to Nations Direct is \$233,299 [Note 1]. See Declaration of Wesley H. Avery ("Avery Decl."). Wesley H. Avery was appointed the chapter 7 Trustee (the "Trustee").

### **A. The Proposed Sale**

On August 27, 2020, Trustee filed the Sale Motion. The Trustee seeks: authorization to sell the Property free and clear of liens, claims and interests, subject to overbid; to authorize payment of liens, costs, brokers' commissions and debtors' homestead through escrow; and requiring debtors to vacate, turn over possession of, and remove personal property from, the property, pursuant to 11 U.S.C. §§ 105(a), 363(b), 363(f), 542(a).

Following negotiations, the Trustee entered into an agreement with Journey Investments, Inc. (the "Buyer") for the purchase of the Property in the sum of \$540,000, subject to court approval and any qualified overbids received. See Avery Decl. The Property is currently occupied by the Debtors; however, the Trustee and the Trustee's counsel, Charles Shamash ("Shamash"), have expressed concerns regarding whether the Debtors will vacate in a timely manner should this motion be granted. While the Trustee was hiring a broker, Shamash engaged in email communication with the Debtors (through their counsel) regarding a potential settlement agreement

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**CONT... Efren Zavala and Maria Padilla**

**Chapter 7**

that would have allowed the Debtors to avoid the sale of the Property. *See* Declaration of Charles Shamash ("Shamash Decl."). Between November 2019 and May 2020, Shamash attempted to reach an agreement with the Debtors. Shamash alleges that communications were "sporadic" and "laden with excuses for taking so long to respond." *Id.* Following the employment of the broker, Shamash claims that Debtors' counsel promised "to have Debtors sign a settlement agreement and provide a 50% deposit toward the proposed settlement by a certain date." *Id.* Shamash agreed to extend the date by which the Debtors could sign a settlement agreement, but did not receive any documentation from the Debtors. As such, it is the Trustee's and Shamash's belief that the Debtors may not vacate in time to consummate the sale to the Buyer, hence the request for a turnover over.

At a sale price of \$540,000 the trustee proposes payment of the Nations Direct lien in full (\$233,299). The Buyer will pay the sale price in all cash and take the Property as-is, without any warranties, disclosures, or repairs whatsoever. Close of escrow is to be 15 days after entry of a court order approving the sale. The Trustee projects that the sale transaction will incur costs of sale of \$43,200 and no capital gains. After the above referenced lien is resolved and costs of sale are paid, the estate expects to receive \$88,501 in net proceeds.

The Trustee also projects administrative expenses in the range of \$50,250. Those expenses include: Trustee's statutory fees of \$30,250, attorneys' fees of approximately \$15,000, and accountants fees of \$5,000. After administrative expenses, the Trustee expects approximately \$38,251 remaining for distribution to unsecured creditors.

The Trustee also requests authority to pay any liens he deems valid through escrow, as well as ordinary costs, such as prorated taxes, title fees, escrow fees, and broker commissions of 6%. Finally, the Trustee requests that, pending review of any liens, claims, or charges asserted by the L.A. County Tax collector or any other interest asserted, the Court authorize him to instruct escrow to pay any of those undisputed amounts to the respective claimants.

As of the preparation of this tentative ruling, no opposition is on file.

## **II. Findings and Conclusions**

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**Efren Zavala and Maria Padilla**

**Chapter 7**

**A. The Proposed Sale is Approved**

Section 363(b) permits the Trustee to sell estate property out of the ordinary course of business, subject to court approval. The Trustee must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19-20 (9th Cir. BAP 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19-20.

The Trustee has demonstrated sufficient business justification for the sale. The sale is consistent with the Trustee's statutory obligation to liquidate the estate's assets. Section 363(f) provides that estate property may be sold free and clear of liens, claims, and interests, providing one of the following conditions is satisfied:

- 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 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.

The Court approves the Trustee's proposed treatment of the liens and encumbrances against the Property, and finds that the Property may be sold free and clear of such liens and encumbrances as requested by the Trustee. Pursuant to § 363(f)(3), the sale is free and clear of the Nations Direct lien because the Property's sale will generate proceeds exceeding the value of the lien. Furthermore, the Trustee is authorized to pay any liens he deems valid through escrow, as well as ordinary costs, such as prorated taxes, title fees, escrow fees, and broker commissions.

**B. Auction Procedures**

In the event that any qualified overbidders emerge, the Trustee and the Trustee's broker will conduct an auction in accordance with the procedures set forth in the Sale Motion. Qualifications to overbid, as laid out in the Sale Motion, include: 1) three days before the hearing on this Sale Motion, presentation of a check in the amount of \$16,050 in earnest money to the Trustee's broker; 2) three days before the

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hearing on this Sale Motion, presentation of a completed and executed written offer to purchase, signed by the overbidder that, in the Trustee's business judgment, is substantially similar or superior to the terms of the purchase agreement at issue in this Sale Motion; 3) three days before the hearing on this Sale Motion, the overbidder must present proof to the Trustee's broker that he has the financial ability to pay the balance of any bid he makes, subject to the approval of the court; and 4) the overbidder must attend the hearing on this Sale Motion. In addition, the initial overbids shall be at least \$5,000 more than the current sale price and all subsequent overbids must be in minimum increments of \$5,000. Any prevailing overbidder shall be bound to the overbid procedures stated in the Sale Motion and must make adequate arrangements with the Trustee prior to or at the hearing.

In order to ensure the timely sale of the Property, the court is prepared to confirm a back-up buyer proposed by the Trustee, if any.

Finally, the Court deems the absence of any opposition as consent to the granting of the Sale Motion pursuant to Local Bankruptcy Rule 9013-1(h).

**C. The Turnover Order is Approved**

**1. Eviction Moratoria**

As a preliminary matter, the court must determine whether current state and federal eviction moratoria apply to § 363 sales and § 542 turnover orders.

On August 31, 2020, Governor Gavin Newsom signed into law Assembly Bill 3088 that provides protections for renters facing eviction and certain mortgagees. *See* The Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020; The COVID-19 Small Landlord and Homeowner Relief Act of 2020 ("AB 3088"), [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB3088](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB3088). AB 3088 is primarily written for renters and it allows, under certain circumstances, renters in arrears to remain in their apartments during the COVID-19 pandemic if they fulfill certain requirements. The relevance to mortgagees is much narrower. Certain federally backed mortgages (those by Fannie Mae and Freddie Mac) are subject to enhanced protection, such as mortgage forbearance. AB 3088 § 3273.11(b). In addition, a main intent of the legislature in enacting AB 3088 is to prevent "unpaid rental debt from serving as a cause of action for eviction or



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foreclosure." AB 3088 § 2(g). For mortgagors, the law is aimed at landlords who own and live in small multi-unit residential rental properties. If the tenants in those properties can no longer pay rent to the landlord due to unforeseen circumstances as created by the COVID-19 pandemic, and then the landlord can no longer pay his mortgage, AB 3088 provides certain protections for that landlord to prevent eviction. *Id.* at §§ 2924.15(a)(1) & (2); *see also* Preamble to AB 3088 (noting that the new protections apply to "a first lien mortgage or deed of trust that is secured by residential real property that is *occupied by a tenant . . .*" (emphasis added)). Nowhere does the law make reference to bankruptcies or sales made by a chapter 7 trustee. Therefore, the court concludes that AB 3088 is inapplicable to this action.

On September 4, 2020, the Center for Disease Control issued a federal eviction moratorium that likewise limits who may be evicted from residential properties and when those individuals may be evicted. *See* Fed. Reg. 55292 (Sept. 4, 2020) (the "CDC Order"). Similarly to AB 3088, the intent of the CDC order is to prevent evictions of tenants from rental properties. The CDC order is narrower than AB 3088 and only applies to "covered person[s]" defined as "any tenant, lessee, or resident of a residential property." CDC Order. Moreover "residential property" is defined as "any property leased for residential purposes." *Id.* Therefore, it is evident that the CDC Order is also inapplicable in this action.

## 2. The Turnover Order

The Bankruptcy Code requires the Debtor to cooperate with the Trustee "as necessary to enable the trustee to perform the trustee's duties under this title ...." § 521(a)(3). Among other duties, the Trustee has the obligation to "collect and reduce to money the property of the estate" and to "investigate the financial affairs of the debtor ...." § 704(a)(1) and (a)(4). "[T]he Trustee has a statutory authorization to require production of documents in the furtherance of an investigatory duty also created by statute," and the debtor has a "duty to provide information and to cooperate in this investigation." *Rigby v. Mastro (In re Mastro)*, 585 B.R. 587, 596 (B.A.P. 9th Cir. 2018).

Section 542 provides: "[A]n 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 ..., shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential

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value or benefit to the estate." The "property" referred to in §542 "is generally understood to mean 'property of the estate,' as defined in section 541." *Collier on Bankruptcy* ¶542.02[2] (16th rev'd ed.). The Trustee may seek turnover of property from any person or entity that had "possession, custody, or control" of the subject property during the bankruptcy case, regardless of whether that person or entity had "possession, custody, or control" at the time the turnover motion is filed. *Shapiro v. Henson*, 739 F.3d 1198, 1204 (9th Cir. 2014). The Property, which the Debtor acquired prior to the Petition Date, constitutes property of the estate.

Therefore, to the extent the Trustee requests a turnover order in the Sale Motion, including but not limited to the Debtor vacating the property to the Trustee and his agents, that order is granted.

### 3. Good Faith Purchaser

Section 363(m) protects the rights of good faith purchasers in a § 363(b) sale, mandating that "reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale under such authorization to an entity that purchased or leased such property in good faith . . . ." *See In re Ewell*, 958 F.2d 276, 279 (9th Cir. 1992). Courts traditionally define a "good faith purchaser" as one who buys the property in "good faith" and for "value." *In re Kings Inn, Ltd.*, 37 B.R. 239, 243 (9th Cir. BAP 1984). Lack of good faith can be found through "fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders." *In re Ewell*, 958 F.2d at 281; *In re Suchy*, 786 F.2d 900, 902 (9th Cir. 1985). Having reviewed the declarations of the Trustee and Brian Parsons, one of the real estate brokers retained to market and sell the Property, the court finds that the Trustee is wholly unrelated to the Buyer and all discussions and negotiations were conducted at arms-length, in good faith, and without collusion. Avery Decl. ¶ 9; *see also* Declaration of Brian Parsons ¶ 5. Therefore, the court finds that the Buyer is a good faith purchaser entitled to the protections of § 363(m). If an overbidder prevails at the sale hearing, the court will take testimony from such overbidder to determine whether § 363(m) protections are warranted.

### III. Conclusion

Based upon the foregoing, the Sale Motion is GRANTED in its entirety. Since

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**Chapter 7**

the 363(f)(3) aspect of the Motion has not been controverted, the Debtor's request for a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) is GRANTED, as this would facilitate the conclusion of this case within the timeframe contemplated by the Court.

The Trustee is directed to lodge a proposed order, incorporating this tentative ruling, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The court notes that the payoff figure that the Trustee lists is slightly more than the amount he contemplates to pay Nations Direct upon closing of the sale (approximately \$0.12).

<b>Party Information</b>
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**Debtor(s):**

Efren Zavala

Represented By  
Michael O Akhidenor

**Joint Debtor(s):**

Maria Padilla

Represented By  
Michael O Akhidenor

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Joseph E. Caceres

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**2:20-16475 Neumedicines, Inc.**

**Chapter 11**

**#105.00** Hearing  
RE: [31] Motion of Debtor and Debtor in Possession for Order Authorizing Debtor to Obtain Post-Petition Financing

Docket 31

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Financing Motion is GRANTED. **Debtor and counsel must appear telephonically for this hearing.**

**Pleadings Filed and Reviewed**

1. Motion of Debtor and Debtor in Possession for Order Authorizing Debtor to Obtain Post-Petition Financing Pursuant to 11 §§ U.S.C. 363 and 364(b) [Doc. No. 31] (the "Financing Motion")
2. Statement Regarding Cash Collateral or Debtor in Possession Financing [Doc. No. 32]
3. Response to Motion of Debtor and Debtor in Possession for Order Authorizing Debtor to Obtain Post-Petition Financing [Doc. No. 38] ("Response")
4. Supplemental Declaration of Dr. Raphael Nir in Response to Elliot Friedman's Opposition to Motion for Order Authorizing Debtor to Obtain Post-Petition Financing [Doc. No. 41] ("Supplemental Nir Decl.")
5. Reply to Response of Elliot Friedman to Debtor's Motion for Order Authorizing Debtor to Obtain Post-Petition Financing [Doc. No. 42] ("Reply")

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CONT... Neumedicines, Inc.

Chapter 11

**I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, Neumedicines, Inc. (the "Debtor"), filed this voluntary chapter 11 case on July 17, 2020. The Debtor's chapter 11 filing was precipitated by a number of issues. First, its federal funding was terminated in 2017 due to lack of funding. Second, the company's debt load increased dramatically, from approximately \$2.4 million to \$4 million, from September 2018 to June 2019. Finally, former president Elliot Friedman ("Friedman") sued the Debtor in the United States District Court for the Central District of California, and reached a settlement with the Debtor. *See* Sale Motion at 2. Debtor has two secured creditors:

- 1) Mao Qun International Investment LLC ("MQ") holds a secured senior lien in the approximate amount of \$233,000; and
- 2) Friedman has a second priority security interest in the amount of \$418,495

*See* Declaration of Timothy K. Gallagher ("Gallagher Decl.") ¶ 4. On September 2, 2020, the Court approved the Debtor's use of cash collateral through and including September 30, 2020 [Doc. No. 27]. The Court further ordered that any further extension of the use of cash collateral or post-petition financing must be heard no later than September 29, 2020. *Id.*

**A. Summary of Debtor's Financing Motion**

On September 9, 2020, the Debtor filed this Financing Motion, seeking to borrow money totaling \$100,000 from the Debtor's CEO and minority shareholder, Dr. Raphael Nir ("Dr. Nir"). The line of credit is structured as an unsecured revolving line of credit with a third priority security interest in all pre-petition assets of the Debtor (the "Line of Credit"). In addition, the Line of Credit authorizes Dr. Nir or the Debtor to file a UCC-1 financing statement and take other steps he may deem necessary to perfect his lien. Gallagher Decl. ¶ 15(v). The Debtor states that despite expending reasonable efforts, it was unable to obtain financing on an unsecured basis due to its lack of income and current bankruptcy status. *Id.* ¶ 13.

The material terms of the Line of Credit are as follows:

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**Neumedicines, Inc.**

**Chapter 11**

**Line of Credit Amount:** \$100,000

- Line of Credit shall be provided through discretionary advances made by Dr. Nir to the Debtor

**Term:** The entire unpaid balance, together with any accrued interest, is due and payable upon the earliest happening of the following events:

- 1) The sale of the Debtor's assets;
- 2) Refinancing of existing secured loans; or
- 3) The maturity date of January 31, 2021

**Interest Rate:** 6%

*See* Gallagher Decl. ¶¶ 15-16. The Debtor requests this Line of Credit to "fund its operations and pay for critical expenses pending the closing of a sale, including payment for maintenance of its patents and storage of its vials of IL-12 and cell lines." Financing Motion at 4. The debtor argues that the Line of Credit is in the best interest of the estate and the creditors because it is currently in the process of exploring a sale of the company. Should the Debtor run out of money, it avers that its assets will deteriorate in value and adversely affect the sale price. Gallagher Decl. ¶ 14.

### **B. Summary of Friedman's Response**

Friedman filed a timely response on September 25, 2020. In his Response, Friedman expresses concern over whether the Debtor has truly received an offer and is in negotiations to sell the company. Response ¶¶ 4-5. Friedman also points to language in the Line of Credit agreement that states Dr. Nir "is under no obligation to make any advance." *Id.* ¶ 8. Friedman argues that if the company is so desperate for money, the agreement should require the full loan amount to be given to the Debtor. Friedman also expresses concern that the Line of Credit agreement would subordinate his claim to the Line of Credit. *Id.* ¶ 15 He requests that the full \$100,000 be loaned to the Debtor (not as a line of credit) and an "expedited and definitive sale process" be presented to the Court for timely consummation. *Id.* ¶¶ 16-17

### **C. Summary of Debtor's Reply**

On September 18, 2020, the Debtor filed a Reply in support of its Financing

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, September 23, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Neumedicines, Inc.**

**Chapter 11**

Motion. In its Reply, the Debtor clarifies that it was never the intention of Dr. Nir's Line of Credit to appear illusory and that he is entirely committed to loaning the full \$100,000 to the Debtor. Reply at 2; *see also* Supplemental Nir Decl. ¶¶ 3-4. In addition, the Debtor notes that it is nearing the final stages of a sale, with two written offers from publicly traded companies. Reply at 2. One buyer "has been provided with extensive diligence and is believed to be near completion" and the other buyer has completed its due diligence and "is prepared to proceed to auction subject to an agreed upon form of Asset Purchase Agreement." *Id.* at 2-3. Both offers include approximately \$7,000,000 in cash and \$5,000,000 in stock payable at closing. *Id.* at 3. Finally, the Debtor notes that the Line of Credit, which provides Dr. Nir with a third priority security interest, was not meant to subordinate Friedman's claim to that of Dr. Nir's.

## **II. Findings of Fact and Conclusions of Law**

Section 364 governs the obtaining of credit or incurring of debt by a debtor in possession and sets forth the incentives that may be offered to induce potential lenders to extend post-petition credit. *In re Stanton*, 248 B.R. 823, 828 (B.A.P. 9th Cir. 2000) *aff'd*, 285 F.3d 888 (9th Cir. 2002) *opinion amended and superseded on denial of reh'g*, 303 F.3d 939 (9th Cir. 2002) and *aff'd*, 303 F.3d 939 (9th Cir. 2002). Section 364 provides in relevant part:

- (c) If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—
  - (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;
  - (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
  - (3) secured by a junior lien on property of the estate that is subject to a lien.
- (d)(1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if—
  - (A) the trustee is unable to obtain such credit otherwise; and
  - (B) there is adequate protection of the interest of the holder of the lien

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**CONT...**

**Neumedicines, Inc.**

**Chapter 11**

on the property of the estate on which such senior or equal lien is proposed to be granted.

(2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

Based on its review of the Financing Motion, the Response, the Reply, and all other supporting documents, the Court determines that the Debtor has been unable to obtain financing on terms more favorable than those provided in the Line of Credit, and thereby the Financing Motion is in the best interests of secured creditors and the estate. While the Court is sympathetic to Friedman's declaration regarding whether Dr. Nir would in fact loan the money to the Debtor, as well as his issues with regards to the expeditiousness of the sale, the Debtor and Dr. Nir have quelled those concerns.

The Debtor has provided the details of the offers it has received and it appears to be moving quickly toward a sale. Dr. Nir also made clear that he is "fully committed to loaning the Debtor the funds to maintain its valuable assets, including its intellectual property, up to the amount of \$100,000 . . . ." Supplemental Nir Decl. ¶ 4. Furthermore, the Debtor provided the court with a detailed breakdown of its monthly operating budgets from October 2020 to December 2020. After reviewing the operating budgets, it appears as though the \$100,000 Line of Credit will be sufficient to keep the company afloat pending a sale. Finally, the Court notes that Dr. Nir's security interest will in fact be subordinate to Friedman's, which ought to further assure Friedman that this Line of Credit is in the best interest of all parties.

Although the Line of Credit is approved, this case has been pending for over two months and a sale has yet to be realized. Therefore, in order to preserve the value of the company and expedite the sale process, the Line of Credit is approved with the following modifications: (1) any sale that the Debtor engages in must be consummated by December 31, 2020; and (2) for the months of October, November, and December, Dr. Nir is required to loan the Debtor a minimum of \$25,000 per month to cover all expenses pending a sale, with a total loan amount for that period not to exceed \$100,000.

### **III. Conclusion**



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**CONT...**

**Neumedicines, Inc.**

**Chapter 11**

Based on the foregoing, the Financing Motion is GRANTED. Subject to the modifications above, the Debtor is authorized to enter into the Line of Credit and grant Dr. Nir an unsecured third priority security interest. To expedite the closing of the Financing Agreement, the order approving the Financing Motion shall take effect immediately upon entry, notwithstanding Bankruptcy Rule 6004(h).

The Debtor shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

**Party Information**

**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01397 Mastan, Chapter 7 Trustee v. Kim et al

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01397. Complaint by Peter J. Mastan, Chapter 7 Trustee against Ji Young Kim, Does 1 - 10, inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

fr: 6-22-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 4-28-20**

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Ji Young Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Hearing Room 1568**

9:00 AM

**CONT...**

**Keystone Textile, Inc.**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01401 Mastan, Chapter 7 Trustee v. Four Season Travel, Inc. et al

**#2.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01401. Complaint by Peter J. Mastan, Chapter 7 Trustee against Four Season Travel, Inc., Heidi Kim, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 3-13-20**

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Four Season Travel, Inc.

Pro Se

Heidi Kim

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:17-24457 8590 Sunset A-FS, LLC dba Cafe Primo**

**Chapter 7**

Adv#: 2:19-01495 Gonzalez v. Lui et al

**#3.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01495. Complaint by Rosendo Gonzalez against Charlton Lui, Catalyst Trust, CP WW Ventures Inc, CTC Investment Holdings LLC, Primo Hospitality Group, Inc., Hovahannes Tshavrushyan. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Weil, Diane)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 7-24-20**

**Party Information**

**Debtor(s):**

8590 Sunset A-FS, LLC dba Cafe

Represented By  
Michael Jay Berger

**Defendant(s):**

Charlton Lui

Pro Se

Catalyst Trust

Pro Se

CP WW Ventures Inc

Pro Se

CTC Investment Holdings LLC

Pro Se

Primo Hospitality Group, Inc.

Pro Se

Hovahannes Tshavrushyan

Pro Se

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Diane C Weil

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Sonia Singh

**United States Bankruptcy Court  
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9:00 AM

**CONT...**

**8590 Sunset A-FS, LLC dba Cafe Primo**

Diane C Weil

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
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Judge Ernest Robles, Presiding  
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**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-15098 Phachira Ketkaew**

**Chapter 7**

Adv#: 2:19-01252 Jittanoon et al v. Ketkaew

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01252. Complaint by Peera Jittanoon, Preda Jittanoon against Phachira Ketkaew. 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)) (Landsberg, Ian)

FR. 5-25-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 9-8-20**

**Party Information**

**Debtor(s):**

Phachira Ketkaew

Represented By  
Jarintorn Tanatchasai

**Defendant(s):**

Phachira Ketkaew

Pro Se

**Plaintiff(s):**

Peera Jittanoon

Represented By  
Ian Landsberg

Preda Jittanoon

Represented By  
Ian Landsberg

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01416 Linsangan v. Salamat et al

**#5.00 Videoconference through Zoom for Government.**

Trial Date Set RE: [1] Adversary case 2:19-ap-01416. Complaint by Maria Linsangan against Marlon Camar Salamat, Daisy Anne Boiser Salamat. false pretenses, false representation, actual fraud)), (68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Rodriguez, Sergio)

fr: 7-27-20

Docket 1

**Party Information**

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto

**Defendant(s):**

Marlon Salamat

Pro Se

Daisy Salamat

Pro Se

DOES 1-10, Inclusive

Pro Se

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto

**Plaintiff(s):**

Maria Linsangan

Represented By  
Sergio A Rodriguez

**Trustee(s):**

Timothy Yoo (TR)

Pro Se



**United States Bankruptcy Court  
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**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#6.00** Trial Date Set

RE: [12] Amended Complaint by Michael N Berke on behalf of Miguel Hernandez Cruz against Shamim Ahemmed. (Berke, Michael)

Docket 12

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-30-20 AT 9:00 A.M**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Represented By  
Lawrence R Fieselman

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#7.00 Trial Date Set**

RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 1-27-20; 2-24-20; 4-27-20; 5-25-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 5-25-2021 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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9:00 AM

CONT... Verity Health System of California, Inc.

**Chapter 11**

Sam J Alberts  
Shirley Cho  
Patrick Maxcy

**Defendant(s):**

HERITAGE PROVIDER

Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF

Represented By  
Steven J Kahn

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#8.00** Trial Date Set

RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Capitol Distribution Company, LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Inc., a California corporation, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

FR. 8-24-20

Docket 9

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-25-21 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

Beefam, LLC

Represented By  
Lawrence M Jacobson

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Michael Bonert**  
Bonert's Jadasaha, LLC

**Chapter 11**

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Capitol Distribution Company, LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 28, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

**#9.00 Trial Date Set**

RE: [9] Amended Complaint with proof of service by Scott E Blakeley on behalf of Stratas Foods LLC against 3144 Bonert's LLC, Beefam, LLC, Michael Bonert, Vivien Bonert, Bonert Management Company, Inc., Bonert's Incorporated dba Bonert's Slice of Pie, Bonert's Jadasaha, LLC, Bonert's MV, LLC, Bonert's Mibon, LLC, DOES 1 through 10, inclusive. (Attachments: # 1 Exhibit 1 - Invoices # 2 Exhibit 2 - Statement of Account) (Blakeley, Scott)

fr: 8-24-20

Docket      9

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-25-2021 AT 9:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, September 28, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson
DOES 1 through 10, inclusive	Pro Se

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Stratas Foods LLC	Represented By Sean Lowe Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, September 29, 2020

Hearing Room 1568

9:00 AM

2:19-14464 Kevin Garnier

Chapter 7

Adv#: 2:19-01233 Blue v. Garnier

**#1.00 Videoconference through Zoom for Government.**

Trial

RE: [1] Adversary case 2:19-ap-01233. Complaint by Rolando Blue against Kevin Garnier. 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)) (Kaplan, Jerome)

FR. 5-26-20; 8-24-20

Docket 1

**Tentative Ruling:**

9/28/2020

Trial matter. Hearing required.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Rolando Blue

Represented By  
David S Kadin  
Jerome Kaplan

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, September 29, 2020

Hearing Room 1568

10:00 AM

2:20-12770 Wise Choice Plumbing and Rooter, Inc.

Chapter 7

#100.00 HearingRE: [26] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Chevrolet Truck Silverado 2500 HD-V VIN#1GC1CUE85FF149799 with proof of service. (Delmotte, Joseph)

Docket 26

**Tentative Ruling:**

9/28/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, September 29, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Wise Choice Plumbing and Rooter, Inc. Chapter 7**

to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Wise Choice Plumbing and Rooter,

Represented By  
Paul M Brent

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Carolyn A Dye

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, October 5, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01411 Fernando v. Salamat et al

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01411. Complaint by Angela Sandra Legaspi Fernando against Marlon Camar Salamat, Daisy Anne Boiser Salamat. 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)),(91 (Declaratory judgment)) (Smyth, Stephen)

FR. 7-27-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 5-13-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Marlon Camar Salamat

Represented By

Michelle A Marchisotto

**Defendant(s):**

Marlon Camar Salamat

Pro Se

Daisy Anne Boiser Salamat

Pro Se

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By

Michelle A Marchisotto

**Plaintiff(s):**

Angela Sandra Legaspi Fernando

Represented By

Stephen S Smyth

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, October 5, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, October 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12974 Jaylex, Inc. fka Jaylex Home Care Services, Inc.**

**Chapter 7**

**#100.00** Hearing

RE: [18] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Jeep Grand Cherokee Utility 4D Laredo, VIN: 1C4R JEAG 2HC7 17314 .

Docket 18

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 9-14-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Jaylex, Inc. fka Jaylex Home Care

Represented By  
Steven A Alpert

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, October 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16925 Flor De Maria Campos Cerna**

**Chapter 7**

**#101.00** Hearing  
RE: [16] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Honda Accord, VIN: 1HGC R2F1 5HA2 83680 .

Docket 16

**Tentative Ruling:**

10/2/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy

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**CONT... Flor De Maria Campos Cerna**

**Chapter 7**

case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Flor De Maria Campos Cerna

Represented By  
Barbara J Craig

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, October 5, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16023 Victoria Estrada**

**Chapter 7**

**#102.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Honda Civic, VIN: 2HGF C2F7 2JH5 70713 .

Docket 10

**Tentative Ruling:**

10/2/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States



**United States Bankruptcy Court  
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Los Angeles  
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**CONT... Victoria Estrada**

**Chapter 7**

Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Victoria Estrada

Represented By  
Julie J Villalobos

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-17353 Maria G Gallarza-Dominguez**

**Chapter 11**

**#1.00 Post confirmation status conference**

fr. 11-5-19; 2-12-19; 2-19-20; 6-30-20

Docket 98

**\*\*\* VACATED \*\*\* REASON: CONTINUED 11-17-2020 AT 10:00 A.M.**

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than two days before the hearing. The cost for persons representing themselves has been waived through August 31, 2020.**

For the reasons set forth below, a continued Post-Confirmation Status Conference shall take place on **October 6, 2020 at 10:00 a.m.**

**Pleadings Filed and Reviewed:**

- 1) Debtors-In-Possession's Post Confirmation Report on Status of Reorganization [sic] [Doc. No. 121] (the "Second Post-Confirmation Status Report")

**I. Facts and Summary of Pleadings**

On November 14, 2019, the Court entered an *Order Confirming Debtor's Chapter 11 Plan of Reorganization* [Doc. No. 103]. This is the second Post-Confirmation Status Conference. The Debtor asserts that she is current on all payments required under the Plan and foresees that she will continue making payments without issue. The Debtor claims that the preparation and submission of a motion for final decree has been hindered by the COVID-19 pandemic, among other personal reasons. She anticipates filing a final decree motion within the next 90 days.

As of the posting of this tentative ruling, no response or objection to the Second Post-Confirmation Status Report is on file.

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10:00 AM

CONT... **Maria G Gallarza-Dominguez**

**Chapter 11**

**II. Findings and Conclusions**

No appearances required. A continued Post-Confirmation Status Conference shall be held **October 6, 2020, at 10:00 a.m.** A Post-Confirmation Status Report must be submitted by no later than fourteen days prior to the hearing. The Debtor must file and serve a motion for a final decree such that the motion is heard prior to the date of the continued Status Conference. If a favorable order on the motion for a final decree is entered, the continued Status Conference will be vacated.

The Debtor shall submit an order setting the continued Status Conference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than two days before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Maria G Gallarza-Dominguez

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-18075 Rogelio Gonzalez and Carol Gonzalez**

**Chapter 7**

**#2.00 APPLICANT: Accountant - MENCHACA & COMPANY LLP**

Hearing re [118] and [119] Trustee's Final Report and Applications for Compensation Status Hearing

Docket 0

**Tentative Ruling:**

10/5/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$3,931.50 approved [*See* Doc. No. 114] (The estate is administratively insolvent, per the trustee's final report, payment of fees to Menchaca & Company LLP is \$3,141.73 at this time)

Expenses: \$65.30 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**United States Bankruptcy Court  
Central District of California  
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Courtroom 1568 Calendar**

**Tuesday, October 6, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Rogelio Gonzalez and Carol Gonzalez Chapter 7**

**Party Information**

**Debtor(s):**

Rogelio Gonzalez

Represented By  
Kerry P O'Brien

**Joint Debtor(s):**

Carol Gonzalez

Represented By  
Kerry P O'Brien

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Sonia Singh  
Eric P Israel

**United States Bankruptcy Court  
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Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, October 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-18075 Rogelio Gonzalez and Carol Gonzalez**

**Chapter 7**

**#3.00 APPLICANT: Attorney - DANNING GILL ISRAEL & KRASNOFF LLP**

Hearing re [118] and [119] Trustee's Final Report and Applications for Compensation Status Hearing

Docket 0

**Tentative Ruling:**

10/5/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

Fees: \$73,340.50 approved (consisting of \$40,793 awarded on an interim basis on November 21, 2019 [Doc. No. 106] and \$32,547.50 sought in connection with this application [Doc. No. 115]. The estate is administratively insolvent, so, pursuant to the chapter 7 trustee's final report, payment of fees to Danning, Gill, Israel & Krasnoff, LLP, fka Danning, Gill, Diamond & Kollitz, LLP in connection with this application is only \$17,814.60 at this time)

Expenses: \$2,861.76 approved (consisting of \$808.41 awarded on an interim basis on November 21, 2019 [Doc. No. 106] and \$2,053.35 sought in connection with this application [Doc. No. 115]).

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please**

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10:00 AM

**CONT... Rogelio Gonzalez and Carol Gonzalez Chapter 7**

**first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

<b>Party Information</b>
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**Debtor(s):**

Rogelio Gonzalez

Represented By  
Kerry P O'Brien

**Joint Debtor(s):**

Carol Gonzalez

Represented By  
Kerry P O'Brien

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Sonia Singh  
Eric P Israel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, October 6, 2020

Hearing Room 1568

10:00 AM

2:18-18075 Rogelio Gonzalez and Carol Gonzalez

Chapter 7

#4.00 APPLICANT: Trustee - Brad D Krasnoff

Hearing re [118] and [119] Trustee's Final Report and Applications for Compensation Status Hearing

Docket 0

**Tentative Ruling:**

10/5/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$30,250 [*see* Doc. No. 118] (Estate is administratively insolvent so fees payable to the Trustee are only \$24,173.27 at this time)

Total Expenses: \$66.29 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**



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10:00 AM

**CONT... Rogelio Gonzalez and Carol Gonzalez**

**Chapter 7**

**Debtor(s):**

Rogelio Gonzalez

Represented By  
Kerry P O'Brien

**Joint Debtor(s):**

Carol Gonzalez

Represented By  
Kerry P O'Brien

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Sonia Singh  
Eric P Israel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 6, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-10264 450 S. Western, LLC, a California limited liability**

**Chapter 11**

**#5.00 Hearing**

RE: [178] Debtor's Fourth Motion For Order Authorizing Use Of Cash Collateral From October 4, 2020 Through And Including December 27, 2020

Docket 178

**Tentative Ruling:**

10/5/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Debtor is authorized to use cash collateral in accordance with the Budget through and including December 27, 2020.

**Pleadings Filed and Reviewed:**

- 1) Debtor's Fourth Motion for Order Authorizing Use of Cash Collateral from October 4, 2020 Through and Including December 27, 2020 [Doc. No. 178] (the "Motion")
  - a) Notice of [Motion] [Doc. No. 179]
- 2) No opposition to the Motion is on file

**I. Facts and Summary of Pleadings**

On January 10, 2020 (the "Petition Date"), 450 S. Western, LLC (the "Debtor") filed a voluntary Chapter 11 petition. The Debtor owns and operates a three-story, 80,316 square foot shopping center—commonly known as California Marketplace—located at the intersection of South Western Avenue and 5th Street (the "Property"). The Property serves the Los Angeles Korean community and contains 28 stores. As of the Petition Date, the Property had a 98% occupancy rate.

On January 16, 2020, the Court entered an interim order authorizing the Debtor to use cash collateral through and including February 20, 2020. *See* Doc. No. 31.

Authorization to use cash collateral was subsequently extended through and including

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**CONT... 450 S. Western, LLC, a California limited liability**

**Chapter 11**

October 3, 2020. *See* Doc. Nos. 83, 107, and 153.

The Debtor sought bankruptcy protection primarily as the result of litigation with Admire Capital Lending, LLC (“Admire”) and Belmont Two Investment Holdings, LLC (“Belmont”). On September 10, 2015, the Debtor entered into an unsecured promissory note with Belmont and Admire, in the principal amount of \$9.75 million (the “Note”). In litigation before the Los Angeles Superior Court, Belmont and Admire assert a right to convert the Note to equity (the “Conversion Option”). The Debtor disputes the Conversion Option.

The Debtor seeks authorization to use cash collateral through and including December 27, 2020, on the same terms and conditions as have been previously approved. No opposition to the Motion is on file.

An auction of the Property and a hearing on the Debtor’s motion to approve the results of the auction is set for October 14, 2020 (the “Sale Hearing”). The Debtor anticipates that the sale will close by October 31, 2020.

The Court has approved stipulations between the Debtor and the three largest prepetition secured creditors, which establish the amount of these prepetition secured creditors’ claims as follows:

- 1) G450 LLC (“G450”)—\$30,063,331.49 as of the Petition Date, with post-petition interest accruing at the rate of 5%;
- 2) Pontis Capital, LLC (“Pontis”)—\$4,684,959.75 as of the Petition Date; and
- 3) Five West Capital, LP (“Five West”)—\$5,855,998.95 as of the Petition Date.

The cash collateral budget (the “Budget”) provides for the Debtor to make a payment in the aggregate amount of \$100,000 for the month of October 2020 to G450, Pontis, and Five West, consistent with a court-approved stipulation requiring the Debtor to make payments to these entities in exchange for the entities’ forbearance from seeking stay relief. Payments to G450, Pontis, and Five West beyond October 2020 are not contemplated because of the anticipated closing of the sale of the Property by October 31, 2020. Cash collateral will also be used to fund the Property’s operating expenses pending closing of the sale, including expenses for wages, insurance, utilities, taxes, license fees, and quarterly fees owed to the Office of the United States Trustee.

## **II. Findings and Conclusions**

Section 363(c)(2) requires court authorization for the use of cash collateral unless "each entity that has an interest in such cash collateral consents." In the Ninth Circuit,

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Los Angeles  
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**CONT... 450 S. Western, LLC, a California limited liability Chapter 11**

satisfaction of §363(c)(2)(A) requires the "affirmative express consent" of the secured creditor; "implied consent," resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368–69 (9th Cir. 1987). Absent affirmative express consent, the Debtors "may not use" cash collateral absent the Court's determination that the use is "in accordance with the provisions" of Section 363—that is, that the secured creditor's interest in the cash collateral is adequately protected. § 363(c)(2)(B) and (e).

A secured creditor's interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365 (1988).

Most of the Debtor's income is derived from rental payments received from tenants at the Property. The majority of the rental payments come from the Debtor's largest tenant, the Gaju Market Corp. (the "Gaju Market"), which pays monthly rent of \$173,952. The Court takes judicial notice of the fact that the Gaju Market is a grocery store that remains open for business notwithstanding the COVID-19 pandemic.

In connection with prior cash collateral hearings, the Court has found that the Property was not declining in value. The Court finds it appropriate to maintain that finding until presented with concrete evidence to the contrary. The Court notes that the instant bankruptcy petition was precipitated by litigation with Belmont and Admire, not by operating losses. The Debtor's largest tenant is a grocery store whose cash flows are more resilient to the effects of the COVID-19 pandemic than those of other retail establishments. It is also worth emphasizing that the value of the Property is not likely to decline as a result of short-term liquidity issues that tenants may experience as a result of the pandemic. The Property is situated in a desirable location and has historically been profitable. Any effects of the pandemic upon profitability will most likely be temporary.

Based on the absence of evidence of declining value and the payment of \$100,000 to secured creditors G450, Pontis, and Five West for the month of October 2020, the Court finds that secured creditors with an interest in the Debtor's cash collateral are adequately protected. In addition, the use of cash collateral to maintain the California Marketplace's operations constitutes further adequate protection. *See In re Megan-Racine Associates, Inc.*, 202 B.R. 660, 663 (Bankr. S.D.N.Y. 1996) (concluding that

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**CONT... 450 S. Western, LLC, a California limited liability Chapter 11**

"[a]s long as there was a continuous income stream being generated by the Debtor, the fact that the Debtor consumed a portion of those monies to operate and maintain the facility each month did not diminish the value of the [secured creditor's] interest in the [cash collateral]").

The Debtor is authorized to use cash collateral in accordance with the Budget through and including December 27, 2020. Since the sale of the Property is projected to close on October 31, 2020, the Court will not set a further hearing on the use of cash collateral at this time. In the event the Debtor requires the use of cash collateral beyond December 27, 2020, the Debtor shall notice for hearing a further cash collateral motion prior to expiration of the cash collateral authorization.

Within seven days of the hearing, the Debtor shall submit an order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

450 S. Western, LLC, a California

Represented By

Aram Ordubegian  
Christopher K.S. Wong  
M Douglas Flahaut  
Amelia Puertas-Samara

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#1.00** HearingRE: [6037] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And Ninth Omnibus Motion To Reject, Pursuant To 11 U.S.C. § 365(a), Certain Transition Executory Contracts And Unexpired Leases; Memorandum Of Points And Authorities And Declaration Of Richard G. Adcock

Docket 6037

**Tentative Ruling:**

10/6/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Rejection Motions are **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Omnibus Rejection Motions:
  - a) Debtors' Notice of Motion and Ninth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Transition Executory Contracts and Unexpired Leases [Doc. No. 6037]
  - b) Debtors' Notice of Motion and Tenth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Transition Executory Contracts and Unexpired Leases [Doc. No. 6038]
  - c) Notice of Amended Exhibits to Debtors' Ninth and Tenth Omnibus Motions to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Transition Executory Contracts and Unexpired Leases [Doc. No. 6114]
  - d) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 6037 and 6038 [Doc. No. 6073]
- 2) Limited Objections and Reservations of Rights:
  - a) Response and Reservation of Rights of Infor (US), Inc. to the Debtors' Ninth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Transition Executory Contracts and Unexpired Leases [Doc. No. 6102]
  - b) Limited Objection of Cerner Corporation to Debtors' Ninth Omnibus Motion

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 7, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**Verity Health System of California, Inc.**

**Chapter 11**

- to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Transition Executory Contracts and Unexpired Leases [Doc. No. 6103]
- c) Sunquest Information Systems, Inc.’s Limited Objection to Debtors’ Notice of Motion and Tenth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Transition Executory Contracts and Unexpired Leases [Doc. No. 6105]
  - d) NTT Data Services, LLC’s Limited Objection and Reservation of Rights Regarding Debtors’ Notice of Motion and Tenth Omnibus Motion to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Transition Executory Contracts and Unexpired Leases [Doc. No. 6109]
- 3) Debtors’ Omnibus Reply in Support of Ninth and Tenth Omnibus Motions to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Transition Executory Contracts and Unexpired Leases [Doc. No. 6134] (the "Omnibus Reply")
- a) Notice of Exhibit "A" to Debtors’ Omnibus Reply in Support of Ninth and Tenth Omnibus Motions to Reject, Pursuant to 11 U.S.C. § 365(a), Certain Transition Executory Contracts and Unexpired Leases [Doc. No. 6156]

### **I. Facts and Summary of Pleadings**

On August 31, 2018 (the “Petition Date”), Verity Health System of California, Inc. (“VHS”) and certain of its subsidiaries (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors’ Chapter 11 cases are being jointly administered. On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the “Plan”). Doc. No. 5504.

The Debtors move for authorization to reject executory contracts and unexpired leases (collectively, the “Agreements”) to which Debtors Seton Medical Center (“Seton”), St. Francis Medical Center (“SFMC”), St. Vincent Medical Center (“SVMC”), and VHS are parties. (The Plan provides for the rejection of any outstanding executory contracts or unexpired leases of the Debtors as of the Effective Date of the Plan unless the Debtors separately move to reject specified agreements. Plan § 11.1. The instant Motion is such a “separate motion.”) Debtors request that the Agreements be deemed rejected as of (a) October 30, 2020, (b) such earlier date as may be specified by the Debtors in a notice given to the applicable counterparty, or (c) such later date as may be agreed by the Debtors and the applicable counterparty (the “Rejection Date”).

The Agreements were not assigned to the buyers of the Debtors’ hospitals, but are

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temporarily needed by the Debtors to fulfill certain transition services that the Debtors have agreed to provide under certain Interim Management Agreements related to the sales of SFMC and Seton. The Debtors have sought a Rejection Date subsequent to the Effective Date of the Plan to enable them to perform under the Interim Management Agreements. Debtors state that the Agreements will provide no further benefit to the estates once the Debtors have fulfilled their obligations under the Interim Management Agreements.

**A. Summary of Cerner Corporation's Limited Objection and the Debtors' Response Thereto**

Cerner Corporation ("Cerner") filed a limited objection to the Motion. Cerner licenses software to the Debtors. Cerner does not object to rejection, but is concerned that the Debtors, or the purchasers of the Debtors' hospitals, may continue to use its software subsequent to the Rejection Date without payment and without Cerner's consent. Cerner states that in the *Gardens Regional Hospital and Medical Center* case, its software was used without payment subsequent to rejection of its agreement. Cerner states that in another bankruptcy case involving the sale of hospital assets to Prime Healthcare (the purchaser of SFMC), it took years for Cerner to obtain consensus on who owed Cerner funds for the use of its software. Cerner states that it is owed approximately \$30,000 for the post-petition use of its software, and requests an order directing that this post-petition balance be paid timely. Cerner also requests that the Debtors and the purchasers of the Debtors' hospitals be required to agree to certain commitments in order to protect against the unauthorized use of its software.

**[Note 1]**

For the purpose of resolving certain of Cerner's objections, the Debtors state that they are willing to agree to the following:

- 1) The Debtors will bring current any confirmed past due amounts as required under the agreement with Cerner (the "Cerner Agreement").
- 2) To insure that Cerner's software is not used by the purchasers of the hospitals without Cerner's consent, the Debtors will include the following language in the order granting the Motion: "The Debtors shall not, without the prior written consent of Cerner Corporation or its affiliates, as applicable, transfer or assign the Debtors' rights under that certain agreement dated March 27, 2002, as amended, by and between VHS and Cerner Health Services, Inc."
- 3) The Debtors agree with Cerner that the Bankruptcy Court should retain jurisdiction to implement and enforce the terms of any order granting the



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- 4) In response to Cerner's request that the Debtors identify a legal entity responsible for timely paying invoices submitted subsequent to the Effective Date, the Debtors represent that VHS shall be responsible for such payments.

The Debtors argue that the Court should overrule Cerner's request that the Debtors must be subjected to certain additional commitments as a condition of the continued use of Cerner's software. Specifically, the Debtors object to being required to commit to (1) making an adequate assurance payment or a deposit, (2) returning all licensed software and backups upon rejection of the Cerner Agreement, (3) providing a certification from the purchasers of the Debtors' hospitals that the purchasers will not use or accept assignment of the software, and (4) agreeing to authorize Cerner to destroy all VHS-related information in its possession upon rejection of the Cerner Agreement. Debtors contend that although upon rejection Cerner is entitled to whatever rights it holds under the Cerner Agreement, Cerner has failed to offer any basis to expand those rights with additional commitments.

In addition, Cerner states that it does not consent to the use of its software subsequent to the Effective Date of the Plan. The Debtors maintain that Cerner has waived its ability to object to the use of its software subsequent to the Plan's Effective Date, because the Plan contemplated that certain executory contracts and unexpired leases would not be rejected as of the Effective Date, and Cerner did not object to confirmation of the Plan.

**B. Summary of Sunquest Information Systems, Inc.'s Limited Objection and the Debtors' Response Thereto**

Sunquest Information Systems, Inc. ("Sunquest") filed a limited objection to the Motion. Sunquest licenses software to the Debtors. Sunquest states that it shares the concerns of Cerner regarding the potential unauthorized use of its software. Sunquest requests that any order on the Motion contain provisions protecting against such unauthorized use.

The Debtors have agreed to include language in the order stating that they will not transfer their rights to use Sunquest's software without its written consent.

**C. Summary of NTT Data Services' Limited Objection and the Debtors' Response Thereto**

NTT Data Services, LLC ("NTT Data") filed a limited objection to the Motion. NTT Data asserts that the contract which the Debtors seek to reject (the "NTT

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Agreement”) became effective in February 2020, subsequent to the Petition Date. According to NTT Data, it is entitled to an administrative expense claim on account of the rejection of the NTT Agreement.

The Debtors dispute NTT Data’s contention that the NTT Agreement took effect post-petition. The Debtors state that on February 3, 2020, they entered into an amendment of the NTT Agreement (the “NTT Amendment”). Debtors maintain that the NTT Agreement originally took effect on January 16, 2018, prior to the Petition Date. Debtors state that the NTT Amendment only updated the pricing and term of the NTT Agreement and cannot be characterized as a new executory contract.

**D. Other Limited Objections that Have Been Resolved**

The Debtors have agreed to include language in the order resolving a limited objection filed by Infor (US), Inc. and an informal objection asserted by Equinix LLC.

**II. Findings and Conclusions**

Section 365(a) provides that the Debtor, "subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor." In *Agarwal v. Pomona Valley Med. Grp. (In re Pomona Valley Med. Grp., Inc.)*, the Ninth Circuit explained the standard the Bankruptcy Court must apply in determining whether to approve the rejection of an executory contract or unexpired lease:

In making its determination, a bankruptcy court need engage in "only a cursory review of a [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 rejection decision." ...

Thus, in evaluating the rejection decision, the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate. See *Navellier v. Sletten*, 262 F.3d 923, 946 n. 12 (9th Cir.2001); *FDIC v. Casterter*, 184 F.3d 1040, 1043 (9th Cir.1999); see also *In re Chi-Feng Huang*, 23 B.R. at 801 ("The primary issue is whether rejection would benefit the general unsecured creditors."). It should approve the rejection of an executory contract under § 365(a) unless it finds that the debtor-in-possession’s conclusion that rejection would be "advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

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*Pomona Valley*, 476 F.3d 665, 670 (9th Cir. 2007).

The Court finds that the Debtors have shown sufficient cause to reject the Agreements. After the Debtors have fulfilled their obligations under the Interim Management Agreements, the Agreements will provide no benefit to the estates.

The deadline for counterparties to the Agreements to file a proof of claim arising from the rejection of the applicable Agreement, pursuant to Bankruptcy Rule 3002(c) (4), shall be thirty days subsequent to the Rejection Date. Debtors shall provide notice of the Rule 3002(c)(4) Claims Bar Date so that it is actually received by counterparties by no later than **October 23, 2020**. Debtors shall file a proof of service of such notice by no later than **October 23, 2020**.

The deadline for equipment lessors who have not entered into new or restated lease agreements with the purchasers of their hospitals to retrieve equipment located at the hospitals shall be **November 15, 2020** (the "Retrieval Deadline"). The Debtors shall provide notice of the Retrieval Deadline so that it is actually received by the equipment lessors by no later than **October 23, 2020**. Debtors shall file a proof of service of such notice by no later than **October 23, 2020**. Equipment lessors shall coordinate with the Debtors' personnel with respect to the retrieval of their equipment. [**Note 2**] Any equipment not retrieved by the Retrieval Deadline shall be deemed abandoned to the estates.

**A. To the Extent Not Resolved by the Debtors' Omnibus Reply, the Limited Objection Filed by Cerner is Overruled**

To the extent that the issues raised in Cerner's limited objection have not been resolved by the agreements and clarifications set forth by the Debtors in the Omnibus Reply, the limited objection is overruled.

First, Cerner states that it does not consent to the use of its software subsequent to the Effective Date of the Plan. The Plan provides for the rejection of all "Executory Agreements to which any Debtor is a party ... as of the Effective Date, except for those Executory Agreements that ... are the subject of a separate motion to assume, assume and assign, or reject filed under § 365 on or before the Effective Date ...." Plan § 11.1. The Cerner Agreement was not rejected as of the Effective Date because the Debtors filed a separate motion to reject the Cerner Agreement prior to the Effective Date. Cerner did not object to or file a reservation of rights with respect to § 11.1 of the Plan. Having failed to do so, Cerner may not now challenge the use of its software subsequent to the Effective Date.

Second, Cerner seeks to impose upon the Debtors and the purchasers of the

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Debtors' hospitals various commitments as a condition of the continued use of its software. Cerner asserts that such conditions are necessary to protect it from the risk that the purchasers will continue to use its software subsequent to the Rejection Date.

Pursuant to § 365(g)(1), the "rejection of an executory contract or unexpired lease of the debtor constitutes a breach of such contract or lease ... immediately before the date of the filing of the petition ...." As the Supreme Court has explained:

[A] rejection is a breach. And "breach" is neither a defined nor a specialized bankruptcy term. It means in the Code what it means in contract law outside bankruptcy.... A rejection does not terminate the contract. When it occurs, the debtor and counterparty do not go back to their pre-contract positions. Instead, the counterparty retains the rights it has received under the agreement. As after a breach, so too after a rejection, those rights survive.

*Mission Prod. Holdings, Inc. v. Tempnology, LLC*, 139 S. Ct. 1652, 1662, 203 L. Ed. 2d 876 (2019).

As of the Rejection Date, the Debtors will have breached the Cerner Agreement, and Cerner will be entitled to assert a claim against the estates on account of the breach. As made clear by *Mission Product Holdings*, any other rights Cerner may have against the Debtors as a result of the breach are derived from the Cerner Agreement. Here, Cerner seeks to impose various commitments upon both the Debtors and the purchasers of the Debtors' hospitals to protect itself from the consequences of the Debtors' breach. However, Cerner does not identify any provisions in the Cerner Agreement that would obligate the Debtors to commit to the conditions that Cerner proposes. The Court declines to subject either the Debtors or the purchasers of the Debtors' hospitals to Cerner's proposed commitments absent a clear contractual basis for doing so.

**B. The NTT Limited Objection is Overruled**

NTT asserts that it is entitled to an administrative claim in connection with the Debtors' rejection of the NTT Agreement. The Debtors dispute NTT's entitlement to an administrative claim. The issue is whether the NTT Agreement was executed pre-petition or post-petition.

On February 3, 2020, the Debtors and NTT executed a document captioned *Amendment to January 26, 2018 Termination Assistance Services Letter Agreement* (the "NTT Amendment"). The NTT Amendment refers to "a Letter Agreement dated January 26, 2018 in which NTT Data and Verity mutually agreed upon the scope of

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Termination Assistance Services that NTT Data will provide to Verity during the Termination Assistance Period” (the “NTT Agreement”). The NTT Amendment states that its purpose “is to further amend the [NTT Agreement] to extend the Termination Assistance Period applicable to the Hosting Services.” It further provides that the “end date for the Hosting Services shall be changed from February 3, 2020 to January 31, 2021,” and contains updated pricing.

The post-petition amendment of a pre-petition agreement does not alter the pre-petition character of the agreement unless the amendment is “materially different from the original pre-petition document.” *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 673 (Bankr. S.D.N.Y. 1989). Here, the NTT Amendment did not materially alter the terms of the NTT Agreement. All the NTT Amendment did was change the contract’s termination date and update the pricing. The essential terms of the NTT Agreement—that NTT would provide Verity Termination Assistance Services—remained unchanged. The NTT Amendment was not a new executory contract executed post-petition; it merely amended the pre-petition NTT Agreement. Therefore, NTT is not entitled to an administrative expense claim on account of the Debtors’ rejection of the NTT Agreement.

**C. The Debtors’ Proposed Language Restricting Assignment of the Applicable Agreements Sufficiently Protects Counterparties Against the Continued Unauthorized Use of Their Services**

In response to the concerns of various counterparties that the purchasers of the Debtors’ hospitals will continue to use their products and services subsequent to the Rejection Date, the Debtors have agreed to include language in the orders on the Rejection Motions providing that the Debtors’ rights under the applicable Agreements will not be assigned or transferred absent the written consent of the counterparties. The Court finds that this language sufficiently protects the counterparties against the possibility of unauthorized use of their products and services subsequent to the Rejection Date. \_

**III. Conclusion**

Based upon the foregoing, the Rejection Motions are **GRANTED**. Within seven days of the hearing, the Debtors shall submit orders on the Rejection Motions incorporating this tentative ruling by reference.

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel

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Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Specifically, Cerner asserts that (1) upon rejection of the Agreement, the Debtors should agree to return the software and destroy all copies and backups, and Cerner should be granted the right to destroy all VHS information in its possession and (2) the purchasers of the Debtors' assets should certify that they will not use the software and will not accept assignment of the Agreement.

**Note 2**

Equipment lessors should contact (1) Terri Pasion ([TerriPasion@verity.org](mailto:TerriPasion@verity.org)) to arrange for the pickup of equipment located at SFMC, (2) Mark Feltt ([MarkFeltt@verity.org](mailto:MarkFeltt@verity.org)) to arrange for the pickup of equipment located at Seton, or (3) Jon Emerson ([jemerson@thinkbrg.com](mailto:jemerson@thinkbrg.com)) to arrange for the pickup of equipment located at SVMC or any other location.

<b>Party Information</b>
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**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**2:18-20151 Verity Health System of California, Inc.**

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**#2.00** HearingRE: [6038] Motion to Reject Lease or Executory Contract Debtors Notice Of Motion And Tenth Omnibus Motion To Reject, Pursuant To 11 U.S.C. § 365(a), Certain Transition Executory Contracts And Unexpired Leases; Memorandum Of Points And Authorities And Declaration Of Richard G. Adcock

Docket 6038

**Tentative Ruling:**

10/6/2020

See Cal. No. 1, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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**2:20-15501 Chineseinvestors.com, Inc.**

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**#3.00** HearingRE: [172] Motion to Reject Lease or Executory Contract Notice of Motion and Motion Pursuant to 11 U.S.C. Section 365(a) of Lease Rejection and Abandonment of Personal Property; and Declaration in Support Thereof, with Proof of Service

Docket 172

**Tentative Ruling:**

10/6/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived. The Debtor shall direct potential overbidders, if any, to contact the above-referenced number prior to the hearing.**

For the reasons set forth below, the motion is GRANTED.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion Pursuant to 11 U.S.C. § 365(a) of Lease Rejection and Abandonment of Personal Property; and Declaration in Support Thereof [Doc. No. 172] (the "Motion")
2. As of the preparation of this tentative ruling, no objection is on file

**I. Facts and Summary of Pleadings**

On June 18, 2020, Chineseinvestors.com, Inc. (the "Debtor") filed its voluntary chapter 11 petition (the "Petition Date"). The Debtor is a financial information web portal that offers news and information regarding financial markets in Chinese. Prior to the Petition Date, the Debtor maintained a business office in the leased nonresidential space located at 227 W. Valley Blvd., #278-B, San Gabriel, CA 91176 (the "Leased Premises").



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On July 24, 2020, the Debtor notified the lease counterparty, Lancer Investments, LLC ("Lancer"), that it would be abandoning and rejecting the lease for the Leased Premises (the "Lease"). Declaration of Melissa Armstrong ("Armstrong Decl.") at ¶ 6. On September 3, 2020, the Debtor filed this Motion, seeking to reject the Lease as of the date of filing the Motion, and seeking to abandon personal property located at the Leased Premises. The Debtor asserts that "[a]s of the date of this Motion, the Debtor has moved out of the Leased Premises." Motion at ¶ 6. The Debtor further states that "[i]n anticipation of filing this case the Debtor removed from the Leased Premises substantially all of its valuable personal property." *Id.* at 2.

The Debtor believes that, in its sound business judgment, rejection of the Lease would benefit the estate. *Id.* at ¶ 10. The Debtor seeks to reject the lease to "avoid the incurrence of any additional, unnecessary expenses related to the Lease." *Id.* at ¶ 11. By rejecting the Lease, the Debtor approximates that it will save over \$4,039 per month. In addition, the Debtor requests the court approve rejection of the Lease retroactively to September 3, 2020. The Debtor argues that doing so would benefit both the estate as well as Lancer, because Lancer knew on July 24, 2020 that the Debtor was going to be rejecting the Lease. The Debtor believes that in rejecting the Lease retroactively to September 3, 2020, that will have allowed Lancer to seek new renters sooner. *Id.* at ¶ 15. Finally, the Debtor requests that any security deposit it has with Lancer not be used by Lancer as a setoff without prior authorization of the court. *Id.* at 3.

## **II. Findings and Conclusions**

### **A. Motion to Reject Lease**

Under 11 U.S.C. § 365(a), a debtor in possession "may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). "A bankruptcy court's hearing on a motion to reject is a summary proceeding that involves only a cursory review of a [debtor's] decision to reject the contract." *Durkin v. Bendor Corp. (In re G.I Indus.)*, 204 F.3d 1276, 1282 (9th Cir. 2000). "Specifically, a bankruptcy court applies the business judgment rule to evaluate a [debtor's] rejection decision." *Id.* A court should approve the rejection decision unless it finds that the debtor's conclusion that rejection would be advantageous is so "manifestly unreasonable that it could not be based on sound business judgment, but

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only on bad faith, or whim or caprice." *Agarwal v. Pomona Valley Med. Grp., Inc. (In re Pomona Valley Med. Grp., Inc.)*, 476 F.3d 665, 670 (9th Cir. 2007) (internal citation omitted).

The Lease costs the Debtor approximately \$4,039 per month and, as of the date of the Motion, the Debtor has vacated the Leased Premises and appears to have no use for it. The Court finds that the Debtor exercised its sound business judgment in determining to reject the Lease and downsize its office locations, and that the rejection of the Lease will inure to the benefit of the creditors. As such, the Debtor may reject the Lease.

**B. Motion to Abandon Personal Property**

Pursuant to 11 U.S.C. § 554(a), "[a]fter notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a). While it is unclear exactly what is left at the Leased Premises, based on the Debtor's representations, as well as the lack of opposition from any party in interest, the Court finds that the personal property in question is of inconsequential value and benefit to the estate. Therefore, the Debtor is authorized to abandon the personal property left at the Leased Premises.

**C. Date of Rejection**

Finally, the Debtor requests that the Court deem the rejection of the Leases *nunc pro tunc* to the date the Motion was filed: September 3, 2020.

In *In re At Home Corporation*, the Ninth Circuit identified four non-exclusive factors to be applied by a bankruptcy court in ascertaining whether "exceptional circumstances" warranted retroactive rejection of a lease:

- (1) the debtor's immediate filing of a motion to reject the lease;
- (2) a debtor's prompt action in setting that motion for hearing;
- (3) the vacancy of the leased premises; and
- (4) the landlord's conduct and motivation in opposing a retroactive rejection of the lease.

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392 F.3d 1064, 1072 (9th Cir. 2004).

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In considering the first factor, the Debtor filed this Motion on September 3, 2020 and set the hearing on regular notice for October 7, 2020. In only seeking retroactive rejection to September 3, 2020, the Debtor filed this Motion as expeditiously as possible. The Debtor even gave notice to Lancer on July 24, 2020 that it would be rejecting the Lease. While consideration of the Motion was not sought on expedited basis, the court in *In re New Meatco Provisions* granted *nunc pro tunc* relief and found "no appreciable delay" where a debtor set a rejection motion on regular notice and secured the rejection order within thirty-five days. *In re New Meatco Provisions, LLC*, No. 2:13-BK-22155-PC, 2013 WL 3760129, at \*5 (Bankr. C.D. Cal. July 16, 2013). In this case, the Debtor is seeking to secure a rejection order thirty-four days after filing the Motion. In addition, this Court previously granted the Debtor *nunc pro tunc* relief on another lease. There, this Court granted the lease rejection retroactively to the date the motion was filed [*see* Doc. No. 132]. Here, the Debtor's case is even stronger for *nunc pro tunc* relief because the Debtor gave Lancer notice that it would be vacating, and Lancer did not file an opposition. As to the vacancy of the leased premises, the Debtor states that "[i]n anticipation of filing this case the Debtor removed from the Leased Premises substantially all of its valuable personal property." Motion at 2. As discussed above, this Court has determined that the personal property remaining at the Leased Premises is of "inconsequential value and benefit to the estate." Therefore, the Court concludes that the Leased Premises are sufficiently vacant.

In weighing all of *In re At Home* factors, the Debtor has made a sufficient showing that *nunc pro tunc* relief is warranted. The Court determines that it is appropriate to deem the Lease rejected as of September 3, 2020.

**D. The Deposit**

Finally, the Debtor requests that "if the Debtor has deposited monies with [Lancer] as a security deposit or otherwise, [Lancer] may not setoff or otherwise use such deposit without prior authorization of the Court." Motion at 3. The imprecision of the Motion leads the Court to wonder whether the Debtor actually has a security deposit with Lancer and, if it does not, why it would request such relief. In any event, the Debtor made the same argument in its earlier *Motion to Reject Lease or Executory*

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*Contract* [Doc. No. 47]. In the Court's August 5, 2020 ruling on that motion, it directed the lease counterparty to file a proof of claim and submit a motion supporting its purported right to apply its claim against the deposit. The Court will maintain that approach here. If the Debtor has deposited money with Lancer as a security deposit or otherwise, and Lancer wishes to exercise a right of set off against the deposit, Lancer may do so by way of separate motion.

### **III. Conclusion**

Based upon the foregoing, the Motion is GRANTED. The Debtor is authorized to reject the Lease as of September 3, 2020, and to abandon its personal property located at the Leased Premises.

The Debtor is directed to lodge a proposed order, incorporating this tentative ruling, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

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**2:17-15115 John Martin Kennedy**

**Chapter 7**

Adv#: 2:17-01377 Campos v. Kennedy, MD

**#1.00** Status Hearing

RE: [1] Adversary case 2:17-ap-01377. Complaint by Yunuen Campos against John Martin Kennedy. willful and malicious injury)) (Dean, Lauren)

fr: 11-14-17; 2-13-18; 5-15-18; 8-14-18; 10-16-18; 1-23-19; 5-14-19; 9-10-19; 1-14-20; 5-19-20; 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

John Martin Kennedy

Represented By  
Jeffrey S Shinbrot

**Defendant(s):**

John M. Kennedy MD

Represented By  
Jeffrey S Shinbrot

**Plaintiff(s):**

Yunuen Campos

Represented By  
Robert S Lampl  
Lauren A Dean

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-18746 AAA American Construction, Inc.**

**Chapter 7**

Adv#: 2:19-01225 Leslie v. Slauson Oil

**#2.00** Status Conference To Monitor Consummation Of Settlement Agreement  
RE: [1] Adversary case 2:19-ap-01225. Complaint by Sam S. Leslie against  
Slauson Oil. (Charge To Estate). Nature of Suit: (12 (Recovery of  
money/property - 547 preference)),(13 (Recovery of money/property - 548  
fraudulent transfer)) (Simons, Larry)

fr. 10-15-19; 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-8-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Defendant(s):**

Slauson Oil

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Larry D Simons

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01384 Mastan, Chapter 7 Trustee v. Discover Bank et al

**#3.00**

Status Hearing to monitor consummation of the Settlement Agreement

RE: [1] Adversary case 2:19-ap-01384. Complaint by Peter J. Mastan, Chapter 7 Trustee against Discover Bank, Jason Young Cho. (Charge To Estate).

Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-15-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Discover Bank

Pro Se

Jason Young Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01372 Mastan, Chapter 7 Trustee v. Romex Textiles, Inc.

**#4.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01372. Complaint by Peter J. Mastan, Chapter 7 Trustee against Romex Textiles, Inc.. (Charge To Estate). Trustee's Complaint to Avoid and Recover Preferential Transfers (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-19-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Romex Textiles, Inc.

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11795 Alana Gershfeld**

**Chapter 7**

Adv#: 2:19-01052 Dye v. Khasin et al

**#5.00** STATUS CONFERENCE TO MONITOR CONSUMMATION OF THE SETTLEMENT RE: [1] Adversary case 2:19-ap-01052. Complaint by Carolyn A Dye against Maria Khasin, Larry A. Khasin, M & L Living Trust. (Charge To Estate). Complaint: (1) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. §§ 544 And 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; And,(3) Automatic Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Gonzalez, Rosendo)

FR. 1-14-20; FR 7-16-19; 4-14-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONITNUED 11-17-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Alana Gershfeld

Represented By  
Alla Tenina

**Defendant(s):**

Maria Khasin

Pro Se

Larry A. Khasin

Pro Se

M & L Living Trust

Pro Se

**Plaintiff(s):**

Carolyn A Dye

Represented By  
Rosendo Gonzalez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Alana Gershfeld**

**Chapter 7**

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Rosendo Gonzalez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-13973 Jesus Alberto Argueta**

**Chapter 7**

Adv#: 2:20-01111 Dye v. Argueta et al

**#6.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01111. Complaint by Carolyn Dye against Jose Guillermo Argueta, Veronica Carmen Gonzalez. (Charge To Estate). (Attachments: # 1 Summons # 2 Adversary Proceeding Cover Sheet) Nature of Suit: (14 (Recovery of money/property - other)) (Pena, Leonard)

FR. 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT ENTERED 8-27-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jesus Alberto Argueta

Represented By

Jennifer Ann Aragon - SUSPENDED -

**Defendant(s):**

Jose Guillermo Argueta

Pro Se

Veronica Carmen Gonzalez

Pro Se

Does 1 to 10

Pro Se

**Plaintiff(s):**

Carolyn Dye

Represented By

Leonard Pena

**Trustee(s):**

Carolyn A Dye (TR)

Represented By

Leonard Pena

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20111 Jeremy Wyatt LeClair**

**Chapter 7**

Adv#: 2:18-01276 LeClair v. United States Of America (Treasury Department, Int

**#7.00 Status Hearing**

RE: [1] Adversary case 2:18-ap-01276. Complaint by Jeremy Wyatt LeClair against United States Of America (Treasury Department, Internal Revenue Service Division) . (Charge To Estate). Nature of Suit: (66 (Dischargeability - 523(a)(1),(14),(14A) priority tax claims)). Adversary transferred-in from Western District of North Carolina (Charlotte) and Adversary Proceeding #: 18-03043 to Central District of California (Los Angeles). (Ly, Lynn) Additional attachment(s) added on 8/30/2018 (Ly, Lynn). Additional attachment(s) added on 8/30/2018 (Ly, Lynn).

fr: 12-11-18; 5-14-19; 9-10-19; 3-10-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-2021 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Defendant(s):**

United States Of America (Treasury

Pro Se

**Plaintiff(s):**

Jeremy Wyatt LeClair

Represented By  
Michael K Elliot

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01453 Mastan (TR) v. Zendedel

**#8.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01453. Complaint by Peter J. Mastan (TR) against Nazila Zendedel. (Charge To Estate). Complaint for: (1) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.07]; (2) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 544, 550 & 551; Cal. Civ. Code §§ 3439.04, 3439.05, 3439.07]; (3) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (4) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; (5) Turnover of Property [11 U.S.C. § 362] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)),(91 (Declaratory judgment)) (Mang, Tinho)

fr. 1-14-20; 4-14-20; 6-16-20; 6-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-2021 AT 10:00 A.M.**

**Tentative Ruling:**

6/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On January 18, 2019 (the "Petition Date"), Bahram Zendedel ("Debtor") filed a voluntary Chapter 7 petition. Debtor scheduled a community interest in real property located at 1712 Livonia Avenue, Los Angeles, CA 90035 (the "Property").

On May 16, 2018 (prior to the Petition Date), Debtor executed a quitclaim deed transferring the Property to Nazila Zendedel ("Nazila") [Note 1] as her sole and separate property.

On May 28, 2019, the Chapter 7 Trustee (the "Trustee") filed a complaint against

**United States Bankruptcy Court  
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**CONT...**

**Bahram Zendedel**

**Chapter 7**

Nazila, seeking to avoid and recover the transfer of the Property (the “Nazila Complaint”). As an affirmative defense, Nazila asserts that there is no equity in the Property because it is encumbered by lien in favor of Pedram Shamekh (“Shamekh,” and the lien in favor of Shamekh, the “Shamekh Lien”).

On March 12, 2020, the Trustee filed a complaint against Shamekh, seeking to avoid the Shamekh Lien (the “Shamekh Complaint”). Among other things, the Shamekh Complaint alleges that the Shamekh Lien is avoidable as a preferential transfer.

On April 16, 2020, the Court granted the Trustee’s motion to consolidate the litigation of the Shamekh Complaint and the Nazila Complaint. The Court found that consolidation served the interests of judicial economy since both actions concerned the same Property and involved common issues of fact regarding whether various transfers facilitated by the Debtor were done with fraudulent intent. Notwithstanding the consolidation, the Court stated that it would maintain separate dockets for both actions to avoid confusion.

Having reviewed the Joint Status Report filed in the Shamekh Complaint and the Unilateral Status Report filed in the Nazila Complaint, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In the Shamekh Complaint, Defendant has timely demanded a jury trial and has not filed a proof of claim against the estate. Because this is an avoidance action, Defendant is entitled to a jury trial. *See Langenkamp v. Culp*, 498 U.S. 42, 45 (1990) (“If a party does *not* submit a claim against the bankruptcy estate, however, the trustee can recover allegedly preferential transfers only by filing what amounts to a legal action to recover a monetary transfer. In those circumstances the preference defendant is entitled to a jury trial.”).
- 2) Shamekh has not consented to having the jury trial conducted by the Bankruptcy Court. Under Bankruptcy Rule 9015(b), the Bankruptcy Court may conduct a jury trial only with the consent of all parties. All proceedings through and including the Pretrial Conference will take place before the Bankruptcy Court. After the Pretrial Conference has been completed, these consolidated actions will be transferred to the District Court, which will conduct the jury trial. *See generally Sigma Micro Corp. v. Healthcentral.com (In re Healthcentral.com)*, 504 F.3d 775, 787–88 (9th Cir. 2007) (providing that where a right to a jury trial exists, the Bankruptcy Court retains jurisdiction to hear and determine all pretrial matters, and the action should be transferred to the District Court only once it has reached the trial stage).

**United States Bankruptcy Court  
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CONT...

**Bahram Zendedel**

**Chapter 7**

- 3) Shamekh asserts that the Court should sanction the Trustee based upon actions the Trustee has taken in a related action pending before the Los Angeles Superior Court (the "State Court Action"). A Status Report is not the proper mechanism for presenting a request for sanctions. The Court will entertain a request for sanctions only if all procedural requirements are fastidiously complied with. Further, while the Court understands the adversarial position of the parties, a motion for sanctions is seldom a productive means of advancing a party's position in litigation.
- 4) Shamekh and the Trustee have both requested an extension of the litigation deadlines previously ordered. The prior litigation deadlines are extended as follows:
  - a) The last day to amend pleadings and/or join other parties is **10/15/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **1/26/2021**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **2/25/2021**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **3/16/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **3/23/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **3/27/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **4/13/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU)



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CONT...

**Bahram Zendedel**

**Chapter 7**

system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.

- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
- i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
  - iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(i)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(i)(ii), and shall be filed by the deadline specified in ¶(i)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- 5) These consolidated actions shall be referred to the Mediation Panel. The Trustee, Shamekh, and Nazila shall meet and confer and select a Mediator from this District's Mediation Panel. The Trustee shall lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon"

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**Bahram Zendedel**

**Chapter 7**

(See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

- 6) A continued Status Conference is set for **October 13, 2020, at 10:00 a.m.** A Joint Status Report, which shall discuss the status of mediation, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter the Scheduling Orders. Plaintiff shall submit the orders assigning these matters to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Given names are used to distinguish parties with the same surname. No disrespect is intended.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Nazila Zendedel

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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10:00 AM

**CONT... Bahram Zendedel**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:20-01062 Mastan (TR) v. Shamekh

**#9.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01062. Complaint by Peter J. Mastan (TR) against Pedram Shamekh. (Charge To Estate). Complaint for: (1) Avoidance, Recovery, and Preservation of Preferential Transfers [11 U.S.C. §§ 547, 550, and 551]; (2) Avoidance, Preservation, and Recovery of Intentional Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551]; and (3) Avoidance, Preservation, and Recovery of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 & 551] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Mang, Tinho)

fr. 6-17-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-2021 AT 10:00 A.M.**

**Tentative Ruling:**

6/15/2020

See Cal. No. 9, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Pedram Shamekh

Pro Se

**Plaintiff(s):**

Peter J. Mastan (TR)

Represented By  
Chad V Haes  
Tinho Mang

**United States Bankruptcy Court  
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10:00 AM

**CONT... Bahram Zendedel**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
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**Hearing Room 1568**

10:00 AM

**2:19-14464 Kevin Garnier**

**Chapter 7**

Adv#: 2:19-01234 Li v. Garnier

**#10.00** Status Conference RE: [1] Adversary case 2:19-ap-01234. Complaint by Qi Li against Kevin Garnier. false pretenses, false representation, actual fraud)) (Wolk, Sarah)

fr. 10-15-19; 11-19-19; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-15-2021 AT 10:00 A.M.**

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 15, 2019, the Court stayed this action pending resolution of the state court action giving rise to the indebtedness alleged to be non-dischargeable (the "State Court Action"). Trial in the State Court Action is set for August 24, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference is set for **October 13, 2020, at 10:00 a.m.****
- 2) A Joint Status Report, which shall discuss the status of the State Court Action, shall be submitted by no later than fourteen days prior to the hearing.**

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

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**CONT... Kevin Garnier**

**Chapter 7**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Kevin Garnier

Represented By  
Misty Wilks

**Defendant(s):**

Kevin Garnier

Pro Se

**Plaintiff(s):**

Qi Li

Represented By  
Sarah R Wolk  
Zachary Levine

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-14528 Allen Joseph MacQuarrie**

**Chapter 7**

Adv#: 2:19-01144 Borish et al v. Tabingo et al

**#11.00** Status Hearing RE: [1] Adversary case 2:19-ap-01144. Complaint by Stephen & Ami Borish against Allen Joseph MacQuarrie. (d),(e)),(14 (Recovery of money/property - other)),(62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Bonar, Roxanne)

fr: 8-13-19; 9-24-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Allen Joseph MacQuarrie

Represented By  
Shawn P Huston

**Defendant(s):**

Celgine Tabingo Pro Se

Clarke Miller Pro Se

KarmaBox Vending Pro Se

MyKarmabox.com Pro Se

Urban Vendor, Inc Pro Se

Does 1 Through 20, Inclusive Pro Se

Allan J Macquarrie Pro Se

**Plaintiff(s):**

Stephen Borish Pro Se

Ami Borish Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Allen Joseph MacQuarrie**

**Chapter 7**

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-17051 Marlon Camar Salamat**

**Chapter 7**

Adv#: 2:19-01411 Fernando v. Salamat et al

**#12.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01411. Complaint by Angela Sandra Legaspi Fernando against Marlon Camar Salamat, Daisy Anne Boiser Salamat. 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)),(91 (Declaratory judgment)) (Smyth, Stephen)

FR. 5-12-20; 8-11-20

Docket 1

**Tentative Ruling:**

10/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On February 7, 2020, the Court stayed this action pending resolution of the underlying state court action through which Plaintiff seeks to establish the indebtedness alleged to be non-dischargeable (the "State Court Action"). *See* Doc. No. 18. Judgment in the State Court Action was entered on July 29, 2020.

Having reviewed the Joint Status Report submitted by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In view of the entry of judgment in the State Court Action, the previously-ordered stay of this action is lifted.
- 2) The following litigation deadlines shall apply:
  - a) The last day to amend pleadings and/or join other parties is **11/15/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **1/26/2021**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **2/25/2021**.

**United States Bankruptcy Court  
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**Marlon Camar Salamat**

**Chapter 7**

- d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **3/16/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **3/23/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **3/23/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **4/13/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference;

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Central District of California  
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**Marlon Camar Salamat**

**Chapter 7**

notice and service of the Motion shall be governed by LBR 9013-1.

The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
- iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **4/26/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 3) This matter was formally mediated on June 29, 2020. The Court will not order further formal mediation at this time.

The Court will prepare and enter a Scheduling Order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Marlon Camar Salamat**

**Chapter 7**

**Debtor(s):**

Marlon Camar Salamat

Represented By  
Michelle A Marchisotto  
David Brian Lally

**Defendant(s):**

Marlon Camar Salamat

Represented By  
David Brian Lally

Daisy Anne Boiser Salamat

Represented By  
David Brian Lally

**Joint Debtor(s):**

Daisy Anne Boiser Salamat

Represented By  
Michelle A Marchisotto  
David Brian Lally

**Plaintiff(s):**

Angela Sandra Legaspi Fernando

Represented By  
Stephen S Smyth

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#13.00** Status Hearing

RE: [10] **Counterclaim** by Gregory Tardaguila against Ann Tardaguila as Trustee of the Tardaguila Living Trust dated 07-16-1999, Ann Tardaguila (Altholz, Andrew)

fr. 4-14-20; 6-16-20

Docket 10

\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-2021 AT 10:00 A.M.

**Tentative Ruling:**

4/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On December 8, 2019, Ann Tardaguila, as Trustee of the Tardaguila Living Trust dated June 16, 1999 (the "Plaintiff/Counter-defendant"), filed this non-dischargeability action against Gregory Tardaguila (the "Defendant/Counter-claimant"). Plaintiff/Counter-defendant alleges that she loaned Defendant/Counter-claimant in excess of \$750,000; that Defendant/Counter-claimant failed to repay the indebtedness; and that Defendant/Counter-claimant committed actual fraud by diverting funds that could have been used to repay the indebtedness. The Complaint seeks a judgment that the indebtedness is non-dischargeable pursuant to § 523(a)(2) (A) and (a)(6), and seeks denial of Defendant/Counter-claimant's discharge pursuant to § 727(a)(2), (3), (4)(A), and (5).

Defendant/Counter-claimant filed a Counterclaim, in which he alleges that the note evidencing the indebtedness at issue in the Complaint (the "Note") is a sham that was created to change the character of the transaction from a gift to a loan. The Counterclaim alleges that the \$750,000 loaned to Defendant/Counter-claimant was an advance upon his inheritance. The Counterclaim further alleges that the Defendant/Counter-claimant did not sign the Note until several years after the funds were advanced and that Defendant/Counter-claimant was induced to sign the Note

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10:00 AM

**CONT... Gregory Tardaguila**

**Chapter 7**

under false pretenses. The Counterclaim (1) objects to any claim against the estate on account of the Note asserted by Plaintiff/Counter-defendant; (2) seeks cancellation of the Note; and (3) seeks damages for fraud and negligent misrepresentations.

On January 16, 2020, the Court entered an order providing that the litigation deadlines set for the Counterclaim would also apply to the Complaint. Doc. No. 21.

On February 28, 2020, the Court entered an order (1) designating the first and second counterclaims as affirmative defenses to be litigated in connection with the Complaint, (2) finding that the third and fourth counterclaims for fraud and negligent misrepresentation (the "Fraud Counterclaims") accrued prepetition, were property of the bankruptcy estate, and could be prosecuted only by the Chapter 7 Trustee (the "Trustee"), (3) directing the Trustee to file a notice stating whether he intended to prosecute the Fraud Counterclaims by no later than March 13, 2020, and (4) dismissing the Fraud Counterclaims, but giving the Trustee leave to amend should he elect to prosecute the Fraud Counterclaims. Doc. No. 31. The Court subsequently extended the Trustee's deadline to determine whether to prosecute the Fraud Counterclaims to April 15, 2020.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) In view of the extension of the Trustee's deadline to determine whether to prosecute the Fraud Counterclaims, a continued Status Conference shall be held on **June 16, 2020, at 10:00 a.m.**
- 2) A Joint Status Report shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
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10:00 AM

**CONT... Gregory Tardaguila**

**Chapter 7**

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Represented By  
Andrew P Altholz

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se



**United States Bankruptcy Court  
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**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#14.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01503. Complaint by Ann Tardaguila against Gregory Tardaguila. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Mitnick, Eric)

fr. 3-10-20; 4-14-20; 6-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-2021 AT 10:00 A.M.**

**Tentative Ruling:**

4/13/2020

See Cal. No. 18, above, incorporated in full by reference.

<b>Party Information</b>
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**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
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**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-23371 Jose Juan Cabrera**

**Chapter 7**

Adv#: 2:20-01105 United States Trustee for the Central District of v. Cabrera

**#15.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01105. Complaint by United States Trustee for the Central District of California, Region 16 against Jose Juan Cabrera. (Fee Not Required). for Revocation of Discharge pursuant to 11 U.S.C. Sec. 727(d)(4)(B) (Attachments: # 1 Summons) Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Yip, Hatty)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DEFAULT JUDGMENT ENTERED 9-24-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Jose Juan Cabrera	Pro Se
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**Defendant(s):**

Jose Juan Cabrera	Pro Se
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**Plaintiff(s):**

United States Trustee for the Central	Represented By Hatty K Yip
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**Trustee(s):**

Howard M Ehrenberg (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
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**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24704 Jesus Navarro Jr**

**Chapter 7**

Adv#: 2:20-01153 YOO v. Paralta et al

**#16.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01153. Complaint by TIMOTHY YOO against Edwin Paralta. (Charge To Estate). Avoidance of Fraudulent Transfer - 11 U.S.C. §§ 544(b), 550, 551 Nature of Suit: (14 (Recovery of money/property - other)) (McDonald, Kristofer)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-25-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jesus Navarro Jr

Represented By  
Daniel King

**Defendant(s):**

Edwin Paralta

Pro Se

Jane Doe Peralta

Pro Se

**Plaintiff(s):**

TIMOTHY YOO

Represented By  
Kristofer R McDonald

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, October 13, 2020**

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10:00 AM

**2:20-10987 Steve Lewis**

**Chapter 7**

Adv#: 2:20-01114 LANGLOIS FAMILY LAW APC v. LEWIS

**#17.00** Status Hearing

RE: [26] First Amended Complaint objecting to the debtors discharge pursuant to 11 U.S.C., Section 727 (a)(4) by Ray B Bowen Jr on behalf of LANGLOIS FAMILY LAW APC against STEVE LEWIS. (Bowen, Ray)

Docket 26

**Tentative Ruling:**

10/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the *Joint Status Report* [Doc. No. 50] and the *Report Regarding the Discovery Conferences of the Parties* [Doc. No. 54], the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **11/12/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **2/23/2021**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **3/25/2021**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **4/13/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-

**United States Bankruptcy Court  
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CONT...

**Steve Lewis**

**Chapter 7**

- calendaring.)
- e) The last day for dispositive motions to be heard is **4/20/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
  - f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **4/24/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **5/11/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and

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CONT...

**Steve Lewis**

**Chapter 7**

- may subject the moving party to sanctions.
- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
  - i) Trial is set for the week of **5/24/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) Based upon the parties' request that mediation be deferred until after initial discovery has been completed, the Court will not order the matter to formal mediation at this time. The Court will consider whether formal mediation is appropriate at a continued Status Conference to be held on **January 12, 2021 at 10:00 a.m.** A Joint Status Report, which shall discuss the parties' views as to the appropriateness of mediation, shall be submitted no later than fourteen days prior to the hearing.

The Court will prepare and enter a Scheduling Order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Steve Lewis

Represented By  
Allan D Sarver

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**CONT... Steve Lewis**

**Chapter 7**

**Defendant(s):**

STEVE LEWIS

Represented By  
Allan D Sarver

**Plaintiff(s):**

LANGLOIS FAMILY LAW APC

Represented By  
Ray B Bowen Jr

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11316 Jonathan Andrew Arid**

**Chapter 7**

Adv#: 2:20-01119 Rodriguez v. Arid

**#18.00** Status HearingRE: [1] Adversary case 2:20-ap-01119. Complaint by Luis Rodriguez against Jonathan Andrew Arid. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(65 (Dischargeability - other)) (Brown, David)

Docket 1

**Tentative Ruling:**

10/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Summons and Complaint were properly served upon Defendant, and Defendant has not timely responded to the Complaint. Based upon the foregoing, and having reviewed the Unilateral Status Report submitted by Plaintiff, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) No later than **October 27, 2020**, Plaintiff shall obtain entry of default against Defendant.
- 2) No later than **November 10, 2020**, Plaintiff shall file a Motion for Default Judgment (the "Motion"). The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 3) All litigation dates and deadlines previously ordered by the Court are VACATED.
- 4) A continued Status Conference shall be held on **January 12, 2021 at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.



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**CONT... Jonathan Andrew Arid**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jonathan Andrew Arid

Represented By  
Richard G Heston

**Defendant(s):**

Jonathan Andrew Arid

Pro Se

**Plaintiff(s):**

Luis Rodriguez

Represented By  
Brian Center  
David W Brown

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11316 Jonathan Andrew Arid**

**Chapter 7**

Adv#: 2:20-01120 Frooza, Inc. v. Arid

**#19.00** Status HearingRE: [1] Adversary case 2:20-ap-01120. Complaint by Frooza, Inc. against Jonathan Andrew Arid. false pretenses, false representation, actual fraud)) (Malczynski, Matthew) WARNING: Some of the pages of complaint are unreadable/ unviewable. See docket entry #[2] for corrective action; Modified on 5/15/2020 (Evangelista, Maria).

Docket 1

**Tentative Ruling:**

10/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Summons and Complaint were properly served upon Defendant, and Defendant has not timely responded to the Complaint. Based upon the foregoing, and having reviewed the Unilateral Status Report submitted by Plaintiff, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) No later than **October 27, 2020**, Plaintiff shall obtain entry of default against Defendant.
- 2) No later than **November 10, 2020**, Plaintiff shall file a Motion for Default Judgment (the "Motion"). The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 3) All litigation dates and deadlines previously ordered by the Court are VACATED.
- 4) A continued Status Conference shall be held on **January 12, 2021 at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an appropriate order.

**United States Bankruptcy Court  
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CONT... Jonathan Andrew Arid

Chapter 7

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jonathan Andrew Arid

Represented By  
Richard G Heston

**Defendant(s):**

Jonathan Andrew Arid

Pro Se

**Plaintiff(s):**

Frooza, Inc.

Represented By  
Matthew Malczynski

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14552 Khurram Mohammed**

**Chapter 7**

Adv#: 2:20-01168 Irone v. Mohammed

**#20.00** Status Hearing RE: [1] Adversary case 2:20-ap-01168. Complaint by Munni Alvi Irone against Khurram Mohammed - false pretenses, false representation, actual fraud (Milano, Sonny) Modified on 7/30/2020 (Milano, Sonny).

Docket 1

**Tentative Ruling:**

10/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Plaintiff, who is proceeding *in pro se*, has failed to file a Proof of Service establishing that the Summons and Complaint were timely served upon the Defendant. Plaintiff has filed two *Requests for Entry of Default*, both of which have been denied based upon Plaintiff's failure to comply with the requirements of Local Bankruptcy Rule ("LBR") 7055-1(a). Defendant has not filed an Answer to the Complaint.

The Summons issued by the Clerk of the Court (the "Clerk") on August 3, 2020 has expired. *See* Bankruptcy Rule 7004(e) (requiring the Summons to be served within seven days of issuance). The Court has no jurisdiction over the Defendant unless and until the Summons and Complaint have been properly served.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) No later than **October 20, 2020**, Plaintiff shall obtain an Alias Summons from the Clerk. Within seven days of issuance of the Alias Summons, Plaintiff shall serve the Summons and Complaint upon the Defendant in accordance with the requirements of Bankruptcy Rule 7004.
- 2) No later than **October 27, 2020**, Plaintiff shall file a Proof of Service establishing that the Summons and Complaint were properly served upon the Defendant.
- 3) Upon issuance of the Alias Summons, the Clerk will issue an updated

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**Khurram Mohammed**

**Chapter 7**

Scheduling Order setting new litigation deadlines, including the date of a continued Status Conference.

The Court will prepare and enter an appropriate order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Khurram Mohammed	Pro Se
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**Defendant(s):**

Khurram Mohammed	Pro Se
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**Plaintiff(s):**

Munni Alvi Irone	Pro Se
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**Trustee(s):**

Elissa Miller (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-17148 Eddie Gordon**

**Chapter 7**

Adv#: 2:20-01173      Gordon v. Deutsche Bank

**#21.00**      Status Hearing

RE: [1] Adversary case 2:20-ap-01173. Notice of Removal by Eddie Gordon -  
Nature of Suit: (11 (Recovery of money/property - 542 turnover of property))  
(Milano, Sonny)

Docket      1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 10-8-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Eddie Gordon	Pro Se
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**Defendant(s):**

Deutsche Bank	Pro Se
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**Plaintiff(s):**

Eddie Gordon	Pro Se
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**Trustee(s):**

Rosendo Gonzalez (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#22.00** Status Hearing

RE: [30] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19; 12-19-19; 1-8-20; 2-19-20 ; 4-14-20; 7-14-20

Docket 30

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Defendant(s):**

U.S. Bank National Association

Represented By  
Jason D Strabo  
Clark Whitmore  
Jason M Reed  
Megan Preusker  
Nathan F Coco  
Mark Shinderman

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
James Cornell Behrens  
Alexandra Achamallah



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01165 Official Committee of Unsecured Creditors of Verit v. U.S. Bank National

**#23.00** Pre-Trial Conference

RE: [30] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01165. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against U.S. Bank National Association. priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

FR. 7-14-20

Docket 30

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Defendant(s):**

U.S. Bank National Association

Represented By  
Jason D Strabo  
Clark Whitmore  
Jason M Reed  
Megan Preusker  
Nathan F Coco  
Mark Shinderman

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
James Cornell Behrens  
Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#24.00** Status Hearing

RE: [28] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

fr. 12-10-19; fr. 12-19-19; 1-8-20; 2-19-20; 4-14-20

Docket 28

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 10-8-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Defendant(s):**

UMB Bank, National Association

Represented By  
Abigail V O'Brient

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:19-01166 Official Committee of Unsecured Creditors of Verit v. UMB Bank, National

**#25.00** Pre-Trial Conference  
RE: [28] Amended Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association by Alexandra Achamallah on behalf of Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against all defendants. (RE: related document(s)1 Adversary case 2:19-ap-01166. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against UMB Bank, National Association. priority or extent of lien or other interest in property)),(91 (Declaratory judgment)) filed by Plaintiff Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.). (Attachments: # 1 Redline of Initial Complaint and First Amended Complaint) (Achamallah, Alexandra)

Docket 28

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 10-8-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth

**Defendant(s):**

UMB Bank, National Association

Represented By  
Abigail V O'Brient

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Plaintiff(s):**

Official Committee of Unsecured

Represented By  
Mark Shinderman  
Alexandra Achamallah

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01051 California Nurses Association v. VERITY HEALTH SYSTEM OF

**#26.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01051. Complaint by California Nurses Association against VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, St. Vincent Dialysis Center, Inc., ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company, De Paul Ventures, LLC, Richard Adcock, Steven Sharrer. (d),(e)),(14 (Recovery of money/property - other)),(21 (Validity, priority or extent of lien or other interest in property)),(81 (Subordination of claim or interest)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Skogstad, Kyrsten)

FR. 6-16-20; 8-18-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-7-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Defendant(s):**

VERITY HEALTH SYSTEM OF	Pro Se
ST. VINCENT MEDICAL	Pro Se
St. Vincent Dialysis Center, Inc.	Pro Se
ST. FRANCIS MEDICAL	Pro Se
Seton Medical Center, a California	Pro Se
Verity Holdings, LLC, a California	Pro Se
De Paul Ventures, LLC	Pro Se
Richard Adcock	Pro Se
Steven Sharrer	Pro Se
St. Francis Medical Center of	Pro Se
Does 1 through 500	Pro Se

**Plaintiff(s):**

California Nurses Association	Represented By
	Carol A Igoe
	Kyrsten Skogstad



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-22393 Sharon R Williams**

**Chapter 7**

Adv#: 2:19-01050 Miller v. Hancox

**#100.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01050. Complaint by Elissa D. Miller against Donnell Hancox. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(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))) (Simons, Larry)

fr. 6-11-19; 12-19-19; 1-14-20; 3-10-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 10-7-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Sharon R Williams	Pro Se
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**Defendant(s):**

Donnell Hancox	Pro Se
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**Plaintiff(s):**

Elissa D. Miller	Represented By Larry D Simons
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**Trustee(s):**

Elissa Miller (TR)	Represented By Larry D Simons
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#101.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01503. Complaint by Ann Tardaguila against Gregory Tardaguila. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Mitnick, Eric)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-12-2021 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, October 13, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01505 Strategic Funding Source, Inc. v. Tardaguila

**#102.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01505. Complaint by Strategic Funding Source, Inc. against Gregory Tardaguila. 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)) (Harvey, Brian)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-2021 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Strategic Funding Source, Inc.

Represented By  
Brian T Harvey

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 14, 2020

Hearing Room 1568

10:00 AM

2:17-21270 Keystone Textile, Inc.

Chapter 7

#1.00 HearingRE: [117] Application for Compensation Accountant's First Interim Fee Application for Approval of Compensation and Reimbursement of Expenses; Declaration of Samuel R. Biggs; Declaration of Peter Mastan, Trustee for SLBIGGS, Accountant, Period: 3/2/2018 to 8/31/2020, Fee: \$71,667.00, Expenses: \$438.42.

Docket 117

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$71,667.00 [*see* Doc. No. 117]

Expenses: \$438.42 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 14, 2020

Hearing Room 1568

10:00 AM

2:17-21270 Keystone Textile, Inc.

Chapter 7

#2.00 HearingRE: [119] Application for Compensation First Interim Application for Payment of Fees and Reimbursement of Expenses of Margulies Faith, LLP; Declarations in Support for Meghann A Triplett, Trustee's Attorney, Period: 2/20/2018 to 8/31/2020, Fee: \$247,272.00, Expenses: \$4,649.36.

Docket 119

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$247,272.00 [*see* Doc. No. 119]

Expenses: \$4,649.36 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 14, 2020

Hearing Room 1568

10:00 AM

2:17-21275 Tbetty, Inc.

Chapter 7

#3.00 HearingRE: [133] Application for Compensation First Interim Application for Payment of Fees and Reimbursement of Expenses of Margulies Faith, LLP; Declaration in Support for Meghann A Triplett, Trustee's Attorney, Period: 2/20/2018 to 8/31/2020, Fee: \$210,149.38, Expenses: \$6,261.51.

Docket 133

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$210,149.38 [*see* Doc. No. 133]

Expenses: \$6,261.51 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 14, 2020

Hearing Room 1568

10:00 AM

2:17-21275 Tbetty, Inc.

Chapter 7

#4.00 HearingRE: [131] Application for Compensation Accountant's First Interim Fee Application for Approval of Compensation and Reimbursement of Expenses; Declaration of Samuel R. Biggs; Declaration of Peter Mastan, Trustee for SLBiggs, Accountant, Period: 3/2/2018 to 8/31/2020, Fee: \$101,751.00, Expenses: \$622.16.

Docket 131

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$101,751.00 [*see* Doc. No. 131]

Expenses: \$622.16 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 14, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 14, 2020

Hearing Room 1568

10:00 AM

2:18-23944 Yean Hee Kim

Chapter 7

#5.00 APPLICANT: ROSENDO GONZALEZ, Trustee

Applications for chapter 7 fees and administrative expenses

Docket 45

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$3,250 [*see* Doc. No. 47]

Total Expenses: \$110.70 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

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**Wednesday, October 14, 2020**

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10:00 AM

**CONT... Yean Hee Kim**

**Chapter 7**

**Debtor(s):**

Yean Hee Kim

Represented By  
M Teri Lim

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Wednesday, October 14, 2020

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2:18-23944 Yean Hee Kim

Chapter 7

#6.00 APPLICANT: Aountant for Trustee: LEA Accountancy, LLP

Applications for chapter 7 fees and administrative expenses

Docket 45

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$2,774.50 approved [*See* Doc. No. 45]

Expenses: \$199.05 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

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Courtroom 1568 Calendar**

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10:00 AM

**CONT... Yean Hee Kim**

**Chapter 7**

**Debtor(s):**

Yean Hee Kim

Represented By  
M Teri Lim

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

**2:14-25758 Wesley Brian Ferris**

**Chapter 11**

**#7.00 Post-Confirmation Status Conference re Confirmation of Debtor's Chapter 11 Plan**

fr. 7-6-16; 10-4-16; 11-9-16; 4-11-17; 7-11-17; 12-19-17; 5-16-18; 10-16-18; 3-13-19; 7-17-19; 11-13-19; 2-19-20; 6-17-20

Docket 109

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

**Pleadings Filed and Reviewed:**

- 1) Debtor's Ninth Post-Confirmation Status Report [Doc. No. 270] (the "Ninth Post-Confirmation Status Report")
- 2) Debtor's Tenth Post-Confirmation Status Report [Doc. No. 278] (the "Tenth Post-Confirmation Status Report")
- 3) As of the preparation of this tentative ruling, no response or objection is on file

**I. Facts and Summary of Pleadings**

Wesley Brian Ferris (the "Debtor") filed a voluntary chapter 11 petition on August 15, 2014. On March 8, 2017, the Court entered an *Order Confirming Debtor's First Amended Chapter 11 Plan of Reorganization, Dated July 15, 2016 and Approving Stipulations for Plan Treatment of Secured Claims* [Doc. No. 190] (the "Plan"). This is the Tenth Post-Confirmation Status Conference. Just as in the Ninth Post-Confirmation Status Report, the Debtor continues to assert that the Plan is substantially consummated, and that he is either current on or has completed payments owed to unsecured creditors, the disputed Class 3 claimant, and the administrative claimant formerly known as Danning, Gill, Diamond & Kollitz LLP. In addition, the New Value Fund has been fully funded.



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**CONT... Wesley Brian Ferris**

**Chapter 11**

The Debtor provides two minor updates to the Court. The first is regarding the Class 2 claim of Bank of New York Mellon, which is secured by real property located at 443 East Greystone Ave., Monrovia, CA. The Debtor entered into an agreement resolving the issues concerning the amount in default and the proposed payment schedule, and the Court approved the stipulation resolving those issues on June 30, 2020 [Doc. No. 274]. The second update is regarding the Class 1A claim, which is comprised of the secured claim of Structured Asset Mortgage Investments II Inc., Bear Stearns ARM Trust, Mortgage Pass-Through Certificates, Series 2004-3, as serviced by Specialized Loan Servicing, Inc. That claim is secured by real property located at 515 North Alta Vista Ave., Monrovia, CA (the "Alta Vista Property"). Since the Ninth Post-Confirmation Status Hearing, the Debtor has been able to rent the Alta Vista Property and receives monthly payments from a tenant.

The Debtor makes the same argument in the Tenth Post-Confirmation Status Report as he did in the Ninth Post-Confirmation Status Report regarding resolving the remaining administrative claims. A significant portion of administrative claims payable to Debtor's general bankruptcy counsel—the Law Offices of Diane C. Weil ("LODCW") and the Weil Law Firm ("WLF") collectively (the "Applicants")—are outstanding. In order to minimize expenses, and to expedite approval of a final decree, the Debtor again claims that he will seek approval of a lump sum in satisfaction of outstanding professional fees as part of a motion for a final decree. Alternatively, if the Applicants must prepare and file fee applications, administrative expenses will surpass such lump sum. The Debtor believes that if the Court will allow him to seek fees in a motion for a final decree, such payment would allow the entry of a final decree within 45 days.

## **II. Findings and Conclusions**

In its June 17, 2020 ruling, the Court explicitly allowed the Debtor to seek payment for fees in a motion for a final decree, as long as the underlying time records, to the extent available, were made open for inspection at the request of any party in interest until the case is closed. The Debtor was ordered to file a motion for a final decree such that the motion be heard before this October 14, 2020 status conference. The Debtor filed no such motion.

The Debtor is hereby ordered to obtain entry of a final decree by **Wednesday**,

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Los Angeles  
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10:00 AM

**CONT... Wesley Brian Ferris**

**Chapter 11**

**December 9.** The Debtor's continued failure to comply with court order will be taken into consideration when the court reviews the Applicant's fees.

The Court will prepare the order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

6/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, a continued Post-Confirmation Status Conference shall take place on **October 14, 2020, at 10:00 a.m.**

A stipulation resolving the below-discussed issues concerning the Greystone property shall be entered by no later than **July 1, 2020**. The Debtor shall file and serve a motion for a final decree, as indicated below, such that the motion is heard prior to the date of the continued Status Conference. If favorable orders on both the motion for a final decree and the referenced stipulation are entered, the continued Status Conference will go off calendar.

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CONT... Wesley Brian Ferris

**Chapter 11**

**Pleadings Filed and Reviewed:**

- 1) Debtor's Ninth Post-Confirmation Status Report [Doc. No. 270] (the "Ninth Post-Confirmation Status Report")
- 2) Debtor's Eighth Post-Confirmation Status Report [Doc. No. 258] (the "Eighth Post-Confirmation Status Report")
- 3) As of the preparation of this tentative ruling, no response or objection is on file

**I. Facts and Summary of Pleadings**

Wesley Brian Ferris (the "Debtor") commenced a voluntary chapter 11 petition on August 15, 2014. On March 8, 2017, the Court entered an *Order Confirming Debtor's First Amended Chapter 11 Plan of Reorganization, Dated July 15, 2016 and Approving Stipulations for Plan Treatment of Secured Claims* [Doc. No. 190]. This is the Ninth Post-Confirmation Status Conference. The Debtor asserts that the confirmed plan is substantially consummated, and that he is either current on or has completed payments owed to unsecured creditors, the Class 3 claimant, and the administrative claimant formerly known as Danning, Gill, Diamond & Kollitz LLP. In addition, the new value fund has been fully funded. The issues that have prevented Debtor from seeking a final decree are summarized below [**Note 1**]:

- Class 3A consists of the secured claim of Bank of America, N.A., which is secured by real property located at 444 N. Myrtle Ave., Monrovia, CA ("Myrtle"). The Debtor informs that all prior deficiencies on the Myrtle loan have been cured and he is current on all payments.
- Class 2 consists of the claim of Bank of New York Mellon, which is secured by real property located at 443 East Greystone Ave., Monrovia, CA ("Greystone"). The Greystone loan is currently serviced by Shellpoint Mortgage Servicing ("Shellpoint"). The Debtor states that it has entered into an agreement with Shellpoint, resolving issues concerning the amount in default and the proposed payment schedule. The Debtor expects to enter a stipulation on the agreement prior to the instant hearing.
- Class 1A comprises the secured claim of Structured Asset Mortgage Investments II Inc., Bear Stearns ARM Trust, Mortgage Pass-Through Certificates, Series 2004-3, as serviced by Specialized Loan Servicing, Inc. ("Specialized"), which is secured by real property located at 515 North Alta Vista Ave., Monrovia, CA ("Alta Vista"). The Debtor claims that he continued to make payments on the Alta Vista loan consistent with an

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CONT...

**Wesley Brian Ferris**

**Chapter 11**

adequate protection agreement with Specialized. Eighth Post-Confirmation Status Report at 7-8. However, because the Debtor never received a monthly bill from Specialized, he is unaware of the outstanding balance on the loan. *Id.* Alta Vista is currently vacant, and having failed to locate a tenant, the Debtor plans to sell Alta Vista once real estate market conditions improve. In sum, the Debtor will resolve outstanding issues concerning Alta Vista outside of bankruptcy.

Finally, a significant portion of administrative claims payable to Debtor's general bankruptcy counsel—the Law Offices of Diane C. Weil (“LODCW”) and the Weil Law Firm (“WLF”) collectively (“Applicant”)—are outstanding. In order to minimize expenses, and to expedite approval of a final decree, the Debtor will seek approval of a lump sum in satisfaction of outstanding professional fees as part of a motion for a final decree. Alternatively, if Applicants must prepare and file fee applications, administrative expenses will surpass such lump sum.

Accordingly, the Debtor requests a further status conference in the next 120 to 180 days. However, the Debtor intends to shortly file a motion for a final decree, and if approved, the continued status conference should be vacated.

As of the preparation of this tentative ruling, no response or objection is on file.

## **II. Findings and Conclusions**

Based upon the foregoing, it is unclear why the preparation of a fee application here should be such an expensive process. No reason is given by the Applicants, but it is likely that age of the case and the complexity of representation might make the preparation of a full fee application difficult and expensive - and inconsistent with the goal of achieving finality in this six year old case. The Court will allow payment if requested in the motion for final decree, as long as the underlying time records, to the extent available, are made open for inspection at the request of any party in interest until the case is closed.

A continued Post-Confirmation Status Conference shall be held **October 14, 2020, at 10:00 a.m.** A Post-Confirmation Status Report must be submitted by no later than fourteen days prior to the hearing. A stipulation resolving the above-referenced

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**CONT... Wesley Brian Ferris**

**Chapter 11**

issue concerning the Greystone property shall be entered by no later than **July 1, 2020**. The Debtor shall file and serve a motion for a final decree, as discussed above, such that the motion is heard prior to the date of the continued Status Conference. If orders on both the motion for a final decree and the referenced stipulation are entered, the continued Status Conference will go off calendar.

The Debtor shall submit an order setting the continued Status Conference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** A fuller description of Debtor's post-confirmation issues may be found in the Eighth Post-Confirmation Status Report, which is attached as Exhibit 1 of the Ninth Post-Confirmation Status Report.

<b>Party Information</b>
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**Debtor(s):**

Wesley Brian Ferris

Represented By  
Diane C Weil

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, October 14, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-13797 Liboria Zavalza**

**Chapter 11**

**#8.00** HearingRE: [137] Motion to Use Cash Collateral

Docket 137

**Tentative Ruling:**

10/13/2020

See Calendar No. 9, incorporated by reference in full.

**Party Information**

**Debtor(s):**

Liboria Zavalza

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

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**2:19-13797 Liboria Zavalza**

**Chapter 11**

**#9.00** HearingRE: [138] Application for Compensation for Lionel E Giron, Debtor's Attorney, Period: 11/13/2019 to 9/23/2020, Fee: \$10267.50, Expenses: \$262.40.

Docket 138

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis are now deemed final).

Fees: \$26,052.50 approved (consisting of \$15,785.00 awarded on an interim basis on December 4, 2019 [Doc. No. 91] and \$10,267.50 sought in connection with this application [Doc. No. 138]) [**Note 1**].

Expenses: \$793.20 approved (consisting of \$530.80 awarded on an interim basis on December 4, 2019 [Doc. No. 91] and \$262.40 sought in connection with this application [Doc. No. 138]) [*see Note 1*].

On September 23, 2020, Debtor's Counsel erroneously filed a *Motion to Use Cash Collateral* in order to allow the Debtor to pay the attorneys' fees in this application (the "Motion") [Doc. No. 137]. However, 11 U.S.C. § 1141(b) states: "the confirmation of a plan vests all of the property of the estate in the debtor." *See also* Art. VI § B of the Debtor's Amended Chapter 11 Plan (the "Plan") ("On the Effective Date, all property of the estate will vest in the organized debtor pursuant to § 1141(b), free and clear of all claims and interests except as provided in the Plan.") [Doc. No. 119]. The property at issue in the Motion no longer constitutes cash collateral within the definition of § 363(a) because it is no longer property of the estate. Therefore, the

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**CONT... Liboria Zavalza**

**Chapter 11**

Motion is DENIED as unnecessary. The Debtor may, however, pay the attorneys' fees in this application pursuant to Art. I. § A of the Plan.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Note 1:** In the first interim fee application, the Debtor and Debtor's counsel agreed to waive \$1,315.80 of fees and expenses. Therefore, the Debtor's counsel received \$15,000 in fees and expenses for the first interim fee application (\$14,469.20 in fees and \$530.80 in expenses), rather than the total amount of \$16,315.80 that the court approved [*see* Doc. No. 91].

<b>Party Information</b>
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**Debtor(s):**

Liboria Zavalza

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez



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Central District of California  
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**Hearing Room 1568**

10:00 AM

**2:20-10264 450 S. Western, LLC, a California limited liability**

**Chapter 11**

**#10.00** Hearing

RE: [188] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) -- Notice Of Motion And Motion For An Order: (1) Authorizing Bidding Procedures For The Sale Of Estate Property; (2) Approving The Sale Of Property Under 11 U.S.C. § 363 Free And Clear Of Liens, Claims, And Encumbrances, Subject To Higher And Better Offers; And (3) Approving The Form And Manner Of Notice

Docket 188

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the bidding procedures proposed by the Debtor are APPROVED. The Debtor's motion to approve a stipulation with CBRE altering the terms of CBRE's compensation is also APPROVED. The auction shall take place on October 14, 2020 at 10:00 a.m., as noticed by the Debtor.

**Pleadings Filed and Reviewed:**

1) Sale Motion:

- a) Notice of Motion and Motion for an Order: (1) Authorizing Bidding Procedures for the Sale of Estate Property; (2) Approving the Sale of Property Under 11 U.S.C. § 363 Free and Clear of Liens, Claims, and Encumbrances, Subject to Higher and Better Offers; and (3) Approving the Form and Manner of Notice [Doc. No. 188] (the "Sale Motion")
  - i) Notice of Sale of Estate Property [Doc. No. 189]
  - ii) Supplemental Proof of Service [Doc. No. 191]
  - iii) Notice of Filing of Executed Purchase and Sale Agreement [Doc. No. 180]
- b) Opposition Papers:

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**450 S. Western, LLC, a California limited liability**

**Chapter 11**

- i) Limited Objection of G450, LLC to [Sale Motion] [Doc. No. 197]
- ii) Limited Opposition and Reservation of Rights Re [Sale Motion] [filed by Philmont Management, Inc.] [Doc. No. 198]
- iii) Limited Opposition to and Request for Clarification Regarding Debtor's [Sale Motion] [filed by the Official Committee of Unsecured Creditors] [Doc. No. 205]
  - (1) Supplement to Creditor Committee's Limited Opposition to [Sale Motion] [Doc. No. 216]
- c) Reply Papers:
  - i) Secured Creditor Evergreen Capital Assets, L.P.'s Reply to the Limited Opposition of Philmont Management, Inc. [Doc. No. 212]
    - (1) Evergreen Capital Assets, L.P.'s Request for Judicial Notice in Support of its Reply [Doc. No. 213]
  - ii) Secured Creditor Evergreen Capital Assets, L.P.'s Reply to the Limited Opposition of G450, LLC [Doc. No. 215]
  - iii) Secured Creditor Evergreen Capital Assets, L.P.'s Reply to the Limited Opposition [filed by the Committee] [Doc. No. 219]
  - iv) Omnibus Reply [filed by the Debtor] [Doc. No. 218]
- 2) Motion to Approve Stipulation Altering CBRE's Compensation:
  - a) Motion to Approve Stipulation Regarding Compensation of CBRE, Inc. [Doc. No. 185]
  - b) Limited Opposition to Debtor's Motion to Approve Stipulation Regarding Compensation of CBRE, Inc. and Request to Set this Matter for Hearing [Doc. No. 217]

### **I. Facts and Summary of Pleadings**

On January 10, 2020 (the "Petition Date"), 450 S. Western, LLC (the "Debtor") filed a voluntary Chapter 11 petition. The Debtor owns and operates a three-story, 80,316 square foot shopping center—commonly known as California Marketplace—located at the intersection of South Western Avenue and 5th Street (the "Property"). The Property serves the Los Angeles Korean community and contains 28 stores. As of the Petition Date, the Property had a 98% occupancy rate.

On July 9, 2020, the Court approved a stipulation (the "Forbearance Stipulation") between the Debtor, the Official Committee of Unsecured Creditors (the "Committee"), and secured creditors G450, LLC ("G450"), Pontis Capital, LLC ("Pontis"), and Five West Capital, LP ("Five West," and together with G450 and

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**CONT... 450 S. Western, LLC, a California limited liability**

**Chapter 11**

Pontis, the “Senior Secured Creditors”). The Forbearance Stipulation requires the Debtor to make monthly payments to the Senior Secured Creditors until entry of an order approving a sale of the Property, and requires the Debtor to notice an auction and sale of the Property on or before October 15, 2020. Under the Forbearance Stipulation, the Senior Secured Creditors are entitled to relief from stay without further order of the Court if a sale of the Property does not close by December 14, 2020.

On September 15, 2020, the Debtor entered into a *Purchase and Sale Agreement* (the “PSA”) with Evergreen Capital Assets LP (“Evergreen”), the proposed stalking-horse bidder. Evergreen asserts a secured claim in the amount of \$1,371,433. The Debtor moves for the approval of bidding procedures governing the auction of the Property, and seeks authorization to conduct an in-Court auction on October 14, 2020 at 10:00 a.m. The material terms of the PSA and the proposed bidding procedures are as follows:

- 1) Evergreen’s stalking-horse bid is \$45,591,000 in cash plus a credit bid in the amount of Evergreen’s secured claim.
- 2) If the Property is sold to Evergreen or a third-party at the auction and Evergreen receives a payment on account of its secured claim from the sales proceeds, Evergreen shall carve out and transfer for the benefit of the estate’s general unsecured creditors up to \$500,000 of the payment it receives (the “Carve Out”). If there is an overbid of at least \$50 million, and the allowed secured claims are \$47 million or less, Evergreen shall be entitled to a full reimbursement of the Carve Out.
- 3) The initial overbid shall be \$50,000,000.
- 4) If Evergreen is not the winning bidder at the auction, it shall be entitled to a breakup fee of \$500,000 (the “Breakup Fee”).

**Summary of Papers Filed in Connection with the Committee’s Limited Opposition**

On April 21, 2020, the Court approved the Debtor’s application to retain CBRE as its real estate broker to assist in the marketing and sale of the Property. The order approving CBRE’s retention provides that CBRE shall be entitled to receive a commission equal to 3% of the Property’s sale price, or 3.75% if the successful buyer is represented by an outside broker (with 0.75% to be paid to the outside broker). At the time CBRE was retained, it was anticipated that the Property would sell for at least

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**CONT... 450 S. Western, LLC, a California limited liability**

**Chapter 11**

\$52 million.

Because the bids for the Property proved to be lower than anticipated, the Debtor and CBRE executed a stipulation to modify the terms of CBRE's retention (the "CBRE Stipulation"). The Debtor's motion to approve the CBRE Stipulation is being heard concurrently with the Sale Motion. The CBRE Stipulation provides that CBRE will waive its 3% commission if (1) the Property is sold to Evergreen and (2) the Property is sold for less than \$50 million. If these two conditions are satisfied, CBRE will receive \$50,000 as reimbursement for its out-of-pocket marketing costs in lieu of a 3% commission. CBRE has not agreed to waive its 3% commission if the Property is sold for less than \$50 million to a party other than Evergreen, which is why the Debtor's proposed bidding procedures set the initial overbid at \$50 million.

The Committee opposes the Debtor's motion for approval of the CBRE Stipulation, because approval of the CBRE Stipulation would require that the minimum overbid be set at \$50 million. The Committee asserts that a minimum overbid of \$50 million is unreasonably high and will chill bidding. The Committee maintains that the CBRE Stipulation should be modified to limit CBRE's commission in the event the Property sells for less than \$50 million to a buyer other than Evergreen. The Committee notes that if CBRE's commission is not so modified, the Carve Out would be reduced if the Property sells for less than \$50 million to a buyer other than Evergreen.

The Committee also filed a limited objection to the Sale Motion, in which it reasserts its position that the proposed \$50 million minimum overbid is unreasonably high. In addition, the Committee notes that if the Property sells to a party other than Evergreen for at least \$50 million, Evergreen would be entitled to payment of the Breakup Fee and reimbursement of the Carve Out. The Committee argues that it would be unfair for Evergreen to receive a reimbursement of the Carve Out and payment of the Breakup Fee.

In response to the Committee's arguments, the Debtor states that an overbid of at least \$50 million is necessary because CBRE has not agreed to waive its commission if the Property sold for less than \$50 million to a party other than Evergreen. According to the Debtor, this means that the sale is economically feasible only if the overbid is at least \$50 million. In addition, the Debtor asserts that the Breakup Fee and Carve Out were carefully negotiated and are necessary to facilitate the sale.

In response to the Committee's limited objection, Evergreen argues that it is entitled to receive the Breakup Fee even if it is also paid the Carve Out because Evergreen's agreement to serve as the stalking horse bidder was the result of extensive

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CONT... **450 S. Western, LLC, a California limited liability** Chapter 11

negotiations, and its stalking horse bid increases the likelihood that other bidders will participate in the auction.

**Summary of Papers Filed in Connection with Philmont Management's Limited Opposition**

Philmont Management, Inc. ("Philmont") filed a limited opposition to the Sale Motion. Philmont asserts a mechanic's lien against the Property in the amount of \$2,361,878.40. Philmont does not oppose the sale, but disputes the analysis of the priority of its lien set forth in the Sale Motion. Philmont contends that its lien is senior to the liens of Evergreen and One Stop Financial Consulting, Inc. ("One Stop"); the Debtor's position is that Philmont's lien is junior to the Evergreen and One Stop liens. Philmont opposes any payment to One Stop and Evergreen until the priority dispute has been resolved.

Evergreen filed a response to Philmont's limited opposition. Evergreen asserts that Philmont's lien is not secured because Philmont (a) failed to comply with the requirements of the Cal. Civ. Code §§ 8110 and 8118 with respect to the creation of its lien and (b) failed to timely perfect any lien it held pursuant to § 546. Evergreen argues that the Property may be sold free and clear of Philmont's lien under § 363(f) (4) because the lien is subject to a bona fide dispute.

In response to Philmont's limited opposition, the Debtor contends that Philmont's alleged mechanic's lien should not impede the sale, especially given that Philmont does not oppose the sale. The Debtor's position is that the disputed portions of the sales proceed should be held in a segregated account until issues concerning Philmont's alleged mechanic's lien have either been litigated or consensually resolved.

**Summary of Papers Filed in Connection with G450's Limited Objection**

G450 asserts a secured claim in the amount of \$31,205,507. G450 contends that it should be paid at closing all amounts of its claim except for any amount that is in bona fide dispute. G450 requests that at closing, sufficient funds be reserved to satisfy (1) the unpaid portion of G450's claim, (2) continued accrued interest on the unpaid portion, and (3) reasonable attorneys' fees. G450 opposes payment from escrow to any junior secured creditor unless it is afforded adequate protection.

Evergreen disputes a portion of G450's claim, but does not oppose the establishment of a reserve from the sale proceeds sufficient to satisfy the disputed portion of the claim. Evergreen's position is that G450's claim is overstated by

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**CONT... 450 S. Western, LLC, a California limited liability**

**Chapter 11**

approximately \$1.7 million. According to Evergreen, the overstatement arises primarily from G450's contention that it is entitled to annual reimbursement of a 1% professional service fee. Evergreen contends that the underlying loan documents provide only for a one-time 1% professional service fee rather than a recurring annual fee. Evergreen believes that a reserve of \$2 million would be sufficient to cover the disputed portion of G450's claim.

The Debtor states that G450 will be adequately protected because its lien will attach to the proceeds of the sale to the same extent, validity, and priority as existed prior to the sale. The Debtor seeks to pay only undisputed liens and encumbrances directly from escrow, and proposes to hold all remaining sales proceeds in reserve. The Debtor anticipates being able to secure a stipulation by and among the Debtor, G450, Evergreen, Philmont, and the Committee regarding the establishment of an appropriate reserve.

## **II. Findings and Conclusions**

### **The Bidding Procedures and Breakup Fee Proposed by the Debtor Are**

#### **Approved**

Section 363(b) authorizes the Debtors to sell estate property out of the ordinary course of business, subject to court approval. The Debtors must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19–20 (9th Cir. BAP 1988). Whether the articulated business justification is sufficient “depends on the case,” in view of “all salient factors pertaining to the proceeding.” *Id.* at 19–20. “The court’s obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances.” *Simantob v. Claims Prosecutor, LLC (In re Lahijani)*, 325 B.R. 282, 288–89 (B.A.P. 9th Cir. 2005).

The Debtor has demonstrated sufficient business justification for an immediate sale. Under the Forbearance Stipulation, the Senior Secured Creditors will be entitled to foreclose upon the Property if a sale has not closed by December 14, 2020. Therefore, a prompt sale is essential if general unsecured creditors are to have any chance of obtaining a recovery.

The Debtors have adequately marketed the Property. The Debtor’s broker, CBRE, has listed the Property on commercial real estate websites that are accessible to approximately 9,950 potential buyers and brokers. CBRE received 302 preliminary indications of interest and seven serious offers.

The Committee’s objection to the approval of the CBRE Stipulation is overruled. Under the Court’s order approving its retention, CBRE is entitled to receive a 3%

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**CONT... 450 S. Western, LLC, a California limited liability**

**Chapter 11**

commission from the sale of the Property. Fortunately, the Debtor was able to negotiate a stipulation under which CBRE will waive its 3% commission if the Property is sold to Evergreen for less than \$50 million. Absent CBRE's stipulated waiver of its commission, the proposed sale to Evergreen would not be economically feasible.

According to the Committee, the CBRE Stipulation does not go far enough. The Committee's view is that CBRE should also be required to waive its 3% commission if the Property is sold to a party other than Evergreen for less than \$50 million.

The Court declines to reduce CBRE's compensation beyond the reductions already set forth in the CBRE Stipulation. CBRE's retention and compensation was approved pursuant to § 328. Doc. No. 116 at ¶ 2. Consequently, modification of the terms of CBRE's compensation is permissible only if the terms and conditions of the compensation "prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions." The Court lacks the ability under § 328 to reduce CBRE's compensation beyond the reductions already set forth in the CBRE Stipulation. At the time CBRE's compensation was approved, it could have easily been anticipated that the Property might not sell for the projected \$52 million.

The Committee's objection to the initial overbid amount of \$50 million is overruled. Because CBRE has not agreed to waive its commission if the Property is sold to a party other than Evergreen for less than \$50 million, the sale is not economically feasible absent an initial overbid of \$50 million.

The Committee also objects to Evergreen receiving payment of the Breakup Fee and reimbursement of the Carve Out in the event the Property is sold to a party other than Evergreen. The Court finds that this objection lacks merit. The Breakup Fee of \$500,000 amounts to 1% or less of the purchase price. A Breakup Fee is warranted if it is "reasonably related to the risk, effort, and expenses of the prospective purchaser." *See Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 662 (S.D.N.Y. 1992). A 1% Breakup Fee in the context of a \$50 million transaction easily meets this standard. In fact, courts—including this Court—routinely approve breakup fees well in excess of that proposed here. *See, e.g., In re Verity Health System of California, Inc.*, No. 2:18-bk-20151-ER (Bankr. C.D. Cal. Oct. 30, 2018) (approving 4% breakup fee in connection with a \$235 million transaction); *In re BPS Holdings, Inc.*, No. 16-12373 (Bankr. D. Del. Nov. 30, 2016) (approving a 3.5% breakup fee in connection with a \$575 million transaction); *In re Lake Burton Dev., LLC*, No. 09-bk-22830 (Bankr. N.D. Ga. Apr. 1,

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**CONT... 450 S. Western, LLC, a California limited liability**

**Chapter 11**

2010) (approving a 4.75% breakup fee in connection with a \$10.52 million transaction). The 1% Breakup Fee is not excessive even if Evergreen receives payment of both the Breakup Fee and reimbursement of the \$500,000 Carve Out.

The Court notes that Evergreen devotes substantial space in its papers to attacking the validity of the mechanic's lien asserted by Philmont and contesting the amount of the lien asserted by G450. It is not appropriate for the Court to rule upon the validity or amount of the liens asserted by Philmont and G450 at this time. All liens will attach to the sale proceeds to the same extent and with the same validity and priority as those liens had prior to the sale. The Debtor has agreed to pay only undisputed liens from escrow and to establish a reserve for the payment of disputed liens. The establishment of a reserve and the attachment of the disputed liens to the sales proceeds will provide the lienholders adequate protection. Because the Debtor is in the process of negotiating a stipulation to establish the amount of the reserve, the Court will not specify the amount of the reserve in this tentative ruling. Pursuant to § 363(f)(4), the sale is free and clear of Philmont's mechanic's lien and the disputed portion of G450's lien.

**Auction Procedures**

In the event that the Debtor receives qualified overbids, the Debtor shall conduct the auction in accordance with the bidding procedures set forth in the Sale Motion. The minimum initial overbid shall be \$50 million. Subsequent overbids shall be in increments of \$100,000, subject to adjustment at the Debtor's discretion.

Upon conclusion of the auction, the Debtor shall present to the Court for approval the Winning Bidder and Back-up Bidder, if any. The Court will then take testimony to determine whether the Winning Bidder and Back-up Bidder (if any) are entitled to the protections of § 363(m).

Notwithstanding Bankruptcy Rule 6004(h), the order approving the sale shall take effect immediately upon entry. The Debtor is authorized to pay directly from escrow customary closing costs and outstanding property taxes. The Debtor is authorized to execute all documents necessary to consummate the sale.

**Party Information**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut



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**CONT...**

**450 S. Western, LLC, a California limited liabilit**

Amelia Puertas-Samara

**Chapter 11**

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**2:20-10264 450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

**#10.10** Hearing

RE: [185] Motion to Approve Compromise Under Rule 9019 -- Motion To Approve Stipulation Regarding Compensation Of CBRE, Inc.; Memorandum Of Points And Authorities And Declaration Of Richard J. Laski In Support Thereof, With Proof Of Service

Docket 185

**Tentative Ruling:**

See Cal. No. 10, above, incorporated in full by reference.

<b>Party Information</b>
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**Debtor(s):**

450 S. Western, LLC, a California

Represented By

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut

Amelia Puertas-Samara

**United States Bankruptcy Court  
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**2:20-14485 Michael Stuart Brown**

**Chapter 11**

**#11.00** Confirmation of the Debtor's Plan

fr. 7-14-20

Docket 17

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 10-5-2020**

**Tentative Ruling:**

7/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Court has reviewed the Debtor's *Subchapter V Status Report* [Doc. No. 34], and for the reasons set forth below, a continued Status Conference shall take place on **October 14, 2020, at 10:00 a.m.**, concurrently with the Confirmation Hearing. The continued Status Conference will provide the Debtor an opportunity to brief the Court on any matters affecting the expeditious and economical resolution of the case. The Debtor shall file a brief Status Report by no later than **September 30, 2020**. Additionally, subject to any objections, the dates and deadlines established below will apply to the solicitation and confirmation of the Debtor's Plan.

**Pleadings Filed and Reviewed:**

- 1) Debtor's Subchapter V Status Report [Doc. No. 34] (the "Status Report")
- 2) Notice of Motion and Motion in Individual Chapter 11 Case for Order Authorizing Debtor in Possession to Employ Professional (Other than General Bankruptcy Counsel) [Doc. No. 31]
- 3) Chapter 11 Voluntary Petition [Doc. Nos. 1 and 11]
- 4) Addendum to Voluntary Petition [Doc. No. 17]
- 5) Amended Voluntary Petition [Doc. No. 25]
- 6) As of the preparation of this tentative ruling, no response or opposition is on file

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CONT... Michael Stuart Brown

Chapter 11

### **I. Facts and Summary of Pleadings**

Michael Stuart Brown (the “Debtor”) commenced a voluntary chapter 11 petition on May 15, 2020. The Debtor is the owner and managing partner of California Lawyers Group, LLP. Amended Petition [Doc. No. 25] at 8. On his commencement documents, the Debtor lists an ownership interest in his private residence located at 2089 Stradella Road, Los Angeles, California 90077 (the “Property”). The Property is encumbered by three security interests held by JP Morgan Chase Bank, N.A. (“JP Morgan”), CitiMortgage Inc. (“Citibank”), and Matt Hayden (“Hayden”) (in order of priority), as well as a tax lien in favor of the Los Angeles County Treasurer and Tax Collector.

The amended schedules [Doc. No. 25] indicate that the Debtor is or was recently a party in at least three different state court actions:

- *Michael S. Brown v. Sun Outdoor Advertising, LLC*;
- *Michael Brown v. JP Morgan Chase, Citibank, et al.*;
- The Debtor recently sustained an adverse state court judgment totaling \$1,400,000 awarded to McIntosh & Associates (“McIntosh”).

On June 1, 2020, the Debtor entered an addendum to the petition, on which he elected to proceed under Subchapter V of chapter 11 [Doc. No. 17]. No objection to the Subchapter V election is on file. The Debtor timely submitted the Status Report on June 30, 2020 [Doc. No. 34]. The Status Report makes the following representations concerning Debtor’s financial obligations and efforts to successfully reorganize his debts:

At this time, the Debtor expects to timely submit a chapter 11 plan, but he cannot determine whether the plan will be consensual or non-consensual. The uncertainty revolving around Debtor’s plan arises from a dispute with JP Morgan and Citibank concerning the Property’s title [Note 1] and the precise amount of arrears. The Debtor is currently negotiating a resolution with both JP Morgan and Citibank. In addition, the Debtor is in discussions with McIntosh over the total amount of its unsecured claim.

The Court further notes that Debtor’s has taken appropriate steps to proceed with his reorganization. He has secured an order employing general bankruptcy counsel,

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**CONT... Michael Stuart Brown**

**Chapter 11**

while a separate application to employ special litigation counsel is currently outstanding. The deadline to file a proof of claim has been set for July 24, 2020 [Doc. No. 32].

As of the preparation of this tentative ruling, no response or opposition is on file.

## **II. Findings and Conclusions**

Section 1188 of the recently-enacted Subchapter V of chapter 11 provides that the court “shall hold a status conference to further the expeditious and economical resolution of a case,” not later than 60 days after the entry of the order for relief.

No appearance is required if submitting on the court’s tentative ruling. This is the Initial Subchapter V Status Conference. Having reviewed the Status Report, the commencement documents, and all other relevant pleadings, the Court is prepared to set a continued Status Conference on **October 14, 2020 at 10:00 a.m.** The Debtor shall file a brief Status Report by no later than **September 30, 2020.**

Additionally, subject to any objection, the Court is further prepared to set the following dates and deadlines regarding solicitation and confirmation of the Debtor’s Plan:

1. A hearing will be held on the confirmation of the Debtor’s Plan on **October 14, 2020, at 10:00 a.m.**
2. The Plan shall be filed and served by no later than **August 13, 2020**, pursuant to Section 1189 of the Bankruptcy Code.
3. A notice of hearing on confirmation of the Plan and, if applicable, a ballot conforming to Official Form No. 14, shall be mailed to all creditors, equity security holders and to the Office of the United States Trustee by no later than **August 20, 2020.**
4. **September 18, 2020** is fixed as the last day for creditors and equity security holders to return to Debtor’s counsel ballots containing written acceptances or rejections of the Plan, which ballots must be actually received by Debtor’s

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CONT...

**Michael Stuart Brown**

**Chapter 11**

counsel by 5:00 p.m. on such date.

5. **September 23, 2020** is fixed as the last day on which the Debtor must file and serve a motion for an order confirming the Plan (the "Confirmation Motion") including declarations setting forth a tally of the ballots cast with respect to the Plan ("Ballots"), and attaching thereto the original Ballots, and setting forth evidence that the Debtor has complied with all the requirements for the confirmation of the Plan as set forth in Sections 1190 and 1191 of the Bankruptcy Code.
6. **September 30, 2020** (the "Objection Date") is fixed as the last day for filing and serving written objections to confirmation of the Plan.
7. **October 7, 2020** is fixed as the last day on which the Debtor may file and serve a reply to any opposition to the Confirmation Motion ("Reply").
8. An order confirming the plan must be entered by no later than **November 11, 2020**, unless otherwise ordered by the Court.

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor fails to describe the nature of his title dispute in detail. Based on the Status Report and application to employ special counsel [Doc. No. 31], the Court understands that the Debtor alleges that a wrongful foreclosure proceeding was initiated against him, in which a third party purchased the Property. In addition to JP Morgan and Citibank, the Debtor avers that he is currently discussing a consensual

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**CONT...** Michael Stuart Brown  
agreement with said purchaser.

**Chapter 11**

**Party Information**

**Debtor(s):**

Michael Stuart Brown

Represented By  
Michael F Chekian

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2:20-14485 Michael Stuart Brown

Chapter 11

#12.00 Status Hearing Pursuant To 11 U.S.C. 1188 (Subchapter V). RE: [17]  
Addendum to voluntary petition

fr. 7-14-20

Docket 17

\*\*\* VACATED \*\*\* REASON: CONTINUED 1-20-21 AT 10:00 A.M.

**Tentative Ruling:**

7/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

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**CONT... Michael Stuart Brown**

**Chapter 11**

6) As of the preparation of this tentative ruling, no response or opposition is on file

**I. Facts and Summary of Pleadings**

Michael Stuart Brown (the “Debtor”) commenced a voluntary chapter 11 petition on May 15, 2020. The Debtor is the owner and managing partner of California Lawyers Group, LLP. Amended Petition [Doc. No. 25] at 8. On his commencement documents, the Debtor lists an ownership interest in his private residence located at 2089 Stradella Road, Los Angeles, California 90077 (the “Property”). The Property is encumbered by three security interests held by JP Morgan Chase Bank, N.A. (“JP Morgan”), CitiMortgage Inc. (“Citibank”), and Matt Hayden (“Hayden”) (in order of priority), as well as a tax lien in favor of the Los Angeles County Treasurer and Tax Collector.

The amended schedules [Doc. No. 25] indicate that the Debtor is or was recently a party in at least three different state court actions:

- *Michael S. Brown v. Sun Outdoor Advertising, LLC*;
- *Michael Brown v. JP Morgan Chase, Citibank, et al.*;
- The Debtor recently sustained an adverse state court judgment totaling \$1,400,000 awarded to McIntosh & Associates (“McIntosh”).

On June 1, 2020, the Debtor entered an addendum to the petition, on which he elected to proceed under Subchapter V of chapter 11 [Doc. No. 17]. No objection to the Subchapter V election is on file. The Debtor timely submitted the Status Report on June 30, 2020 [Doc. No. 34]. The Status Report makes the following representations concerning Debtor’s financial obligations and efforts to successfully reorganize his debts:

At this time, the Debtor expects to timely submit a chapter 11 plan, but he cannot determine whether the plan will be consensual or non-consensual. The uncertainty revolving around Debtor’s plan arises from a dispute with JP Morgan and Citibank concerning the Property’s title [Note 1] and the precise amount of arrears. The Debtor is currently negotiating a resolution with both JP Morgan and Citibank. In addition, the Debtor is in discussions with McIntosh over the total amount of its unsecured claim.

The Court further notes that Debtor’s has taken appropriate steps to proceed with

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CONT...

**Michael Stuart Brown**

**Chapter 11**

his reorganization. He has secured an order employing general bankruptcy counsel, while a separate application to employ special litigation counsel is currently outstanding. The deadline to file a proof of claim has been set for July 24, 2020 [Doc. No. 32].

As of the preparation of this tentative ruling, no response or opposition is on file.

## **II. Findings and Conclusions**

Section 1188 of the recently-enacted Subchapter V of chapter 11 provides that the court “shall hold a status conference to further the expeditious and economical resolution of a case,” not later than 60 days after the entry of the order for relief.

No appearance is required if submitting on the court’s tentative ruling. This is the Initial Subchapter V Status Conference. Having reviewed the Status Report, the commencement documents, and all other relevant pleadings, the Court is prepared to set a continued Status Conference on **October 14, 2020 at 10:00 a.m.** The Debtor shall file a brief Status Report by no later than **September 30, 2020.**

Additionally, subject to any objection, the Court is further prepared to set the following dates and deadlines regarding solicitation and confirmation of the Debtor’s Plan:

1. A hearing will be held on the confirmation of the Debtor’s Plan on **October 14, 2020, at 10:00 a.m.**
2. The Plan shall be filed and served by no later than **August 13, 2020**, pursuant to Section 1189 of the Bankruptcy Code.
3. A notice of hearing on confirmation of the Plan and, if applicable, a ballot conforming to Official Form No. 14, shall be mailed to all creditors, equity security holders and to the Office of the United States Trustee by no later than **August 20, 2020.**
4. **September 18, 2020** is fixed as the last day for creditors and equity security holders to return to Debtor’s counsel ballots containing written acceptances or rejections of the Plan, which ballots must be actually received by Debtor’s

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**Michael Stuart Brown**

**Chapter 11**

counsel by 5:00 p.m. on such date.

5. **September 23, 2020** is fixed as the last day on which the Debtor must file and serve a motion for an order confirming the Plan (the "Confirmation Motion") including declarations setting forth a tally of the ballots cast with respect to the Plan ("Ballots"), and attaching thereto the original Ballots, and setting forth evidence that the Debtor has complied with all the requirements for the confirmation of the Plan as set forth in Sections 1190 and 1191 of the Bankruptcy Code.
6. **September 30, 2020** (the "Objection Date") is fixed as the last day for filing and serving written objections to confirmation of the Plan.
7. **October 7, 2020** is fixed as the last day on which the Debtor may file and serve a reply to any opposition to the Confirmation Motion ("Reply").
8. An order confirming the plan must be entered by no later than **November 11, 2020**, unless otherwise ordered by the Court.

The Debtor is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The Debtor fails to describe the nature of his title dispute in detail. Based on the Status Report and application to employ special counsel [Doc. No. 31], the Court understands that the Debtor alleges that a wrongful foreclosure proceeding was initiated against him, in which a third party purchased the Property. In addition to JP Morgan and Citibank, the Debtor avers that he is currently discussing a consensual

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**CONT...** Michael Stuart Brown  
agreement with said purchaser.

**Chapter 11**

**Party Information**

**Debtor(s):**

Michael Stuart Brown

Represented By  
Michael F Chekian

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**2:10-62208 EPD Investment Co., LLC**

**Chapter 7**

Adv#: 2:12-02424 Rund, Chapter 7 Trustee v. Kirkland, individually et al

**#100.00** HearingRE: [417] Motion For Summary Judgment Regarding The Trustees: (1) First Claim For Relief For Disallowance Of Claims And Proofs Of Claims; (2) Alternate First Claim For Relief For Equitable Subordination Of Claims And Proofs Of Claims; And (3) Second, Third, Fourth, Fifth And Sixth Claims For Avoidance And Recovery Of Fraudulent Transfers; Or (B) In The Alternative, An Order Adjudicating That Certain Facts Exist Without Substantial Controversy; And Memorandum Of Points And Authorities In Support Thereof (Weber, Corey)

Docket 417

**Tentative Ruling:**

10/13/2020

On the Court's own motion, the MSJ is **CONTINUED** to **October 28, 2020 at 10:00 a.m.** The MSJ having been fully briefed, no further briefing will be accepted absent further order of the Court.

<b>Party Information</b>
--------------------------

**Debtor(s):**

EPD Investment Co., LLC

Pro Se

**Defendant(s):**

John C Kirkland, individually

Represented By  
Autumn D Spaeth ESQ  
Lewis R Landau

Poshow Ann Kirkland, individually

Represented By  
Lewis R Landau

Poshow Ann Kirkland, as Trustee of

Represented By  
Lewis R Landau  
Stephen E Hyam

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**CONT... EPD Investment Co., LLC**

**Chapter 7**

**Plaintiff(s):**

Jason M Rund, Chapter 7 Trustee

Represented By  
Larry W Gabriel  
Michael W Davis  
Corey R Weber

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Corey R Weber  
Robert A Hessling  
Richard K Diamond  
Daniel H Gill  
Michael W Davis  
Steven T Gubner  
Ronald P Abrams

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 14, 2020**

**Hearing Room 1568**

11:00 AM

**2:10-62208 EPD Investment Co., LLC**

**Chapter 7**

Adv#: 2:12-02424 Rund, Chapter 7 Trustee v. Kirkland, individually et al

**#101.00** HearingRE: [424] Motion For Summary Judgment (Hyam, Stephen)

Docket 424

**Tentative Ruling:**

10/13/2020

On the Court's own motion, the MSJ is **CONTINUED** to **October 28, 2020 at 10:00 a.m.** The MSJ having been fully briefed, no further briefing will be accepted absent further order of the Court.

<b>Party Information</b>
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**Debtor(s):**

EPD Investment Co., LLC

Pro Se

**Defendant(s):**

John C Kirkland, individually

Represented By  
Autumn D Spaeth ESQ  
Lewis R Landau

Poshow Ann Kirkland, individually

Represented By  
Lewis R Landau

Poshow Ann Kirkland, as Trustee of

Represented By  
Lewis R Landau  
Stephen E Hyam

**Plaintiff(s):**

Jason M Rund, Chapter 7 Trustee

Represented By  
Larry W Gabriel  
Michael W Davis  
Corey R Weber

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**CONT... EPD Investment Co., LLC**

**Chapter 7**

**Trustee(s):**

Jason M Rund (TR)

**Represented By**

Corey R Weber  
Robert A Hessling  
Richard K Diamond  
Daniel H Gill  
Michael W Davis  
Steven T Gubner  
Ronald P Abrams



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Wednesday, October 14, 2020

Hearing Room 1568

11:00 AM

2:20-16475 Neumedicines, Inc.

Chapter 11

**#102.00** HearingRE: [43] Motion of Debtor and Debtor in Possession for Entry of An Order (1) Approving Auction Sale Format, Bidding Procedures, and Bidding Qualification Requirements for Sale of All or Substantially All Assets of the Debtors Estate; (2) Authorizing Debtor to Designate Stalking Horse Bidder; (3) Approving Form of Asset Purchase Agreement for Prospective Buyers to Use; (4) Approving Form of Notice to be Provided to all Creditors and Interested Parties; and (5) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest Bidder; Memorandum of Points and Authorities and Declaration of Timothy Gallaher in Support

Docket 43

**Tentative Ruling:**

10/13/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED.

**Pleadings Filed and Reviewed**

1. Motion of Debtor-in-Possession for Entry of an Order (1) Approving Auction Sale Format, Bidding Procedures, and Bidding Qualifications for All or Substantially All of the Debtor's Estate; (2) Authorizing Debtor to Designate Stalking Horse Bidder; (3) Approving Break-Up Fee and Expense Reimbursement; (4) Approving Form of Asset Purchase Agreement for Prospective Buyers to Use; (5) Approving Form of Notice to be Provided to All Creditors and Interested Parties; and (6) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest Bidder; Memorandum of Points and Authorities and Declaration of Timothy Gallagher in Support (the "Motion") [Doc. No. 43]
2. Notice of Asset Purchase Agreement for Prospective Purchasers (the "Template APA") [Doc. No. 55]

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11:00 AM

CONT... Neumedicines, Inc.

Chapter 11

3. As of the preparation of this tentative ruling, no opposition or reply is on file

## **I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, Neumedicines, Inc. (the "Debtor"), filed its voluntary chapter 11 petition on July 17, 2020. The majority of the Debtor's assets consist of intellectual property patents on its IL-12 drug HemaMax, its inventory of HemaMax, and its cell lines. At this juncture, the Debtor generates no income and has a cash burn of approximately \$20,000-\$25,000 per month, which is being funded by a line of credit extended by its CEO, Dr. Raphael Nir. Motion at 5.

Following the filing of its chapter 11 petition, the Debtor began engaging in sale negotiations with various entities. The Debtor marketed its products extensively and has received two written purchase offers to purchase its assets from publicly traded companies. One buyer has been engaged in extensive diligence and is believed to be near completion, and the other has completed its due diligence and is prepared to proceed to an auction upon an agreed form of an Asset Purchase Agreement ("APA"). The Debtor filed a Template Asset Purchase Agreement (the "Template APA"), dated October 7, 2020, that is to be used as a template for negotiations between the prospective bidders and the Debtor. The Debtor also requests approval of proposed Bidding Procedures (the "Bidding Procedures") for an Auction to take place in front of this Court (the "Auction"), as well as approval to designate a Stalking Horse Bidder and a break-up fee.

### **A. Summary of the Template APA**

The material provisions of the Template APA may summarized as follows  
[Note 1]:

The Debtor's assets will be sold at the Auction to the highest bidder (the "Purchaser"). The assets consist of both tangible assets, such as machinery, tools, raw materials, finished goods, and other inventory, and intangible assets, such as licenses, authorizations, electronic records, contracts, and intellectual property (the "Acquired Assets"). A full description of the Acquired Assets is laid out in great detail in Exhibit A of the Template APA. In addition, the consideration for the Acquired Assets is to be the following: (1) \$5,000,000 in cash, payable at closing; (2) \$2,000,000 in immediately available funds at the closing or, at the Purchaser's option, of registered

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**Chapter 11**

shares determined by the market value to be delivered to the Debtor at closing; and (3) \$3,000,000 in immediately available funds within three business days after the clearance date, or at the Purchaser's option, of registered shares determined by the market value delivered to the Debtor within three days after the clearance date. Template APA at Art. III § 3.1. The Purchaser is also required to pay the Debtor royalty payments for a yet to be defined term (the "Royalty Agreement Term"). *See* Exhibit G of the Template APA. The royalty payments are to be 5% of net sales during the Royalty Agreement Term. *Id.* at Art. II § 2.1. Should the Royalty Agreement Term last longer than five years, the Purchaser will pay a minimum of \$5,000,000 in royalty payments each year to the Debtor. *Id.*

With respect to the assumption of executory contracts, the Debtor and the prospective bidders have not yet agreed upon the executory contracts to be assumed. *See* Exhibit B of the Template APA ("Assumed Executory Contracts"). However, Article II § 2.5 of the Template APA lays out the procedures for the assumption of executory contracts. That section states that notice will be given to the counterparties of the contract that the Purchaser plans to assume the contract and, if the counterparty objects, the Court will rule on the objection; however, if the counterparty does not object, the executory contract will be assumed by the Purchaser. Template APA at Art. II § 2.5. The date upon which the executory contracts are to be assumed is either the closing date, if no objections are filed, or upon the Court's ruling of the objection. *Id.* Finally, the Template APA also sets forth a handful of possible reasons for termination of the Template APA. Termination may only occur by written consent of both the Debtor and the Purchaser (*Id.* at Art. IV § 4.6(a)), or by either the Purchaser or the Debtor, if the opposing party breaches any of its obligations as laid out in the Template APA. *Id.* at § 4.6(c)-(1).

**B. Summary of the Bidding Procedures**

The material terms of the Bidding Procedures, as they pertain to the Auction, may be summarized as follow [Note 2]:

- 1) In order to participate in the Auction, prospective bidders must first deliver to the Debtor and its counsel an executed confidentiality agreement in form and substance acceptable to the Debtor and its counsel at least five days prior to the Auction. Motion at 13-14.
- 2) Prospective bidders must provide the Debtor with proof of ability to perform,

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which should include, *inter alia*, the prospective bidder's current financial statements, contact names and numbers for verification of financing sources, evidence of the prospective bidder's internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction, and any other such documentation as the Debtor may reasonably request, at least five days prior to the Auction. *Id.* at 14.

- 3) In addition to any debt that the prospective bidders desire to assume and any other form of consideration the prospective bidders desire to provide, the prospective bidders must agree to pay cash to the Debtor's estate of not less than \$5,000,000. *Id.*
- 4) A prospective bidder must provide the Debtor with a cash deposit amount of \$500,000 at least five business days before the Auction that the Debtor will hold in trust and which will be non-refundable and forfeited to the Debtor in the event that the prospective bidder is deemed to be the winning bidder and fails to close its purchase within ten days following the entry of an order granting the sale motion. *Id.*
- 5) Each prospective bidder must deliver to the Debtor's counsel a black-lined version of the Template APA showing any changes the prospective bidder seeks to make to the Template APA at least five business days prior to the Auction. *Id.*
- 6) If more than one qualified prospective bidder appears at the Auction, the Debtor will determine the order of the bidding by randomly selecting bidding numbers for each bidder. *Id.*
  - a. Bidding increments will be \$50,000 or any higher figures that are wholly divisible by \$50,000. *Id.* at 15.
- 7) The Debtor agrees to pay the designated (though yet to be determined) Stalking Horse Bidder \$175,000, plus reimbursement of actual and reasonable out-of-pocket expenses (including attorneys' fees) in an amount not to exceed \$150,000 in the event that the Stalking Horse is not approved as the buyer of the Debtor's assets, which payment shall be made within ten days following entry of a final, non-appealable order approving the sale another bidder. *Id.*

## II. Findings and Conclusions

### **A. The Bidding Procedures and the Template APA are Approved**

Given that the Debtor generates no income, has a substantial monthly cash

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burn, and is surviving on a loan from its CEO, the courts findings regarding the Bidding Procedures and Template APA are governed primarily by the need to ensure a timely sale of the assets, as well as significant cash consideration from the Purchaser. The Court's obligation is to approve bidding procedures that are most likely to maximize the proceeds received by the estates in connection with the Auction. *See Simantob v. Claims Prosecutor, LLC (In re Lahijani)*, 325 B.R. 282, 288–89 (B.A.P. 9th Cir. 2005) ("The court's obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances.").

The Debtor has extensively marketed its products and engaged in negotiations for a number of months to sell its assets with various entities. *See* Motion at 2. As of the filing of the Motion, the Debtor has come away with, so far, two written offers to purchase its assets from public companies. The minimum requirement of \$5,000,000 in cash consideration would allow all secured and unsecured creditors to be fully paid, with over \$1,000,000 left over for distribution to the shareholders. *See* Debtor's Summary of Assets and Liabilities [Doc. No. 13]. In addition, should the Purchaser choose to provide the remaining \$5,000,000 in cash, the Debtor could receive upwards of \$10,000,000 in cash—well above the amount it owes to secured and unsecured creditors.

The Template APA has lays out some procedures regarding the assumption and assignment of executory contracts, but does not set forth specific dates regarding the mechanics of the assumption and assignment of how those procedures will be effectuated. The Debtor has represented to the Court that its forthcoming sale motion will set forth the procedures for the assumption and assignment of executory contracts [Note 3]. Therefore, the Court will determine whether those procedures are appropriate when it reviews the sale motion.

Given the lack of objection or reply by any party, and after conducting a review of the Bidding Procedures and the Template APA, both the Bidding Procedures and Template APA are approved. The following timeline shall apply (the Court has substantially adopted the Debtor's timeline with minor modifications; all times are in prevailing local time):

- 1) **Friday, October 16, 2020** – Service of Bidding Procedures, Auction and Sale Notices

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**Chapter 11**

- 2) **Wednesday, November 4, 2020** – Deadline for the Debtor to designate a Stalking Horse Bidder
- 3) **Tuesday, November 10, 2020** – Deadline for prospective bidders to submit:
  - a. A cash deposit to the Debtor in the amount of \$500,000
  - b. A black-lined version of the Template APA showing any changes that the prospective bidder seeks to make to the Template APA
- 4) **Friday, November 13, 2020** - Deadline for prospective bidders to submit:
  - a. A confidentiality and non-disclosure agreement to the Debtor and the Debtor's counsel
  - b. Proof of ability to perform to the Debtor
- 5) **Wednesday, November 18, 2020, at 11:00 a.m.** - Auction and Sale Hearing to immediately following the Auction.

**B. Stalking Horse Bidder and Break-Up Fee**

The Debtor has not yet designated a Stalking Horse Bidder, but requests 1) the authority to designate one and 2) approval of a break-up fee of \$175,000, representing 1.75% of the cash consideration [Note 4]. Generally speaking, the smaller the transaction, the larger the break-up fee will be, percentage wise. Here, 1.75% is a very reasonable break-up fee for a transaction of this size. *See In re Integrated Res., Inc.* 135 B.R. 746, 752-53 (Bankr. S.D.N.Y. 1992) (finding a break-up fee of approximately 3% to be reasonable). Given the amount of work that the Debtor has put into the Template APA and its negotiations with whomever it designates at the Stalking Horse Bidder, the Court believes this break-up fee is warranted. Therefore, the break-up fee is approved. Furthermore, while the Debtor has not chosen a Stalking Horse Bidder, the Debtor leads the Court to believe that the Stalking Horse Bidder will be one of the two public companies from which it has received an offer. While the Court would have preferred to know the Stalking Horse Bidder at this time, it is content with allowing the Debtor to designate one of its choosing by the abovementioned November 4, 2020 deadline.

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED** in its entirety.

The Debtor shall submit a conforming order, incorporating this tentative ruling

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**CONT... Neumedicines, Inc.**

**Chapter 11**

by reference, within seven (7) days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** This summary only contains the most significant provisions of the Template APA that are of most interest to the Court. Parties should consult the full Template APA for a complete breakdown of the proposed sale.

**Note 2:** This summary only contains the most significant provisions of the Bidding Procedures. Parties should consult the Bidding Procedures on pages 13-15 of the Motion for a complete list of (a) the requirements that prospective bidders must satisfy to participate in the auction and (b) the rules governing the Auction.

**Note 3:** The Debtor is directed to put in its sale motion specific proposed procedures and a timeline regarding the assumption and assignment of executory contracts.

**Note 4:** Article III § 3.1 of the Template APA lists the consideration to be given in exchange for the Debtor's assets. It consists of \$5,000,000 in immediately available funds, plus \$5,000,000 in either cash or registered shares. Therefore, the Court's finding of a 1.75% breakup fee is based off of a \$10,000,000 sale.

**Party Information**

**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth

**United States Bankruptcy Court  
Central District of California  
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Judge Ernest Robles, Presiding  
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**Monday, October 19, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16925 Flor De Maria Campos Cerna**

**Chapter 7**

**#1.00** HearingRE: [18] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Ford Escape, VIN: 1FMCU0GX3EUE53397 . (Ith, Sheryl)

Docket 18

**Tentative Ruling:**

10/16/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.



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**CONT... Flor De Maria Campos Cerna**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Flor De Maria Campos Cerna

Represented By  
Barbara J Craig

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Monday, October 19, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-15894 Jessica Solorio**

**Chapter 7**

**#2.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA Civic EX Hatchback 4D . (Johnson, Marjorie)

Docket 10

**Tentative Ruling:**

10/16/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
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**Monday, October 19, 2020**

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10:00 AM

**CONT... Jessica Solorio**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Jessica Solorio

Represented By  
Leroy Bishop Austin

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Monday, October 19, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-17120 Tu Tinh Quach**

**Chapter 7**

**#3.00** Hearing  
RE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Tesla Model S, VIN 5YJSA1DP6DF13009 with proof of service.

Docket 10

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL OF MOTION FILED 10-13-20**

**Tentative Ruling:**

10/16/2020

Motion withdrawn.

<b>Party Information</b>
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**Debtor(s):**

Tu Tinh Quach

Represented By  
Gregory M Shanfeld

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Monday, October 19, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12770 Wise Choice Plumbing and Rooter, Inc.**

**Chapter 7**

**#4.00 Hearing**

RE: [30] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Chevrolet City Express Ca; VIN# 3N63M0YN8FK704429 .

Docket 30

**Tentative Ruling:**

10/16/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Movant has established a *prima facie* case that cause exists, and Debtor has not responded with evidence establishing that the property is not declining in value or that Movant is adequately protected.

The subject vehicle has a value of \$8,700.00 and is encumbered by a perfected security interest in favor of the Movant. Considering Movant's lien, all senior liens against the property, and the estimated costs of sale, there is an equity cushion of

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**CONT... Wise Choice Plumbing and Rooter, Inc.**

**Chapter 7**

\$1,163.31. There is some, but very little equity and there is no evidence that the property is necessary to a reorganization or that the trustee can administer the property for the benefit of creditors. Movant is protected by a 13% equity cushion in the property. The Ninth Circuit has established that an equity cushion of 20% constitutes adequate protection for a secured creditor. Pistole v. Mellor (In re Mellor), 734 F.2d 1396, 1401 (9th Cir. 1984); see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.), 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). Because the equity cushion in this case is less than 20%, the Court concludes that Movant's interest in the vehicle is not adequately protected. This is cause to terminate the stay under 11 U.S.C. § 362(d)(1).

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Wise Choice Plumbing and Rooter,

Represented By  
Paul M Brent

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Carolyn A Dye

**United States Bankruptcy Court  
Central District of California  
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**CONT... Wise Choice Plumbing and Rooter, Inc.**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, October 20, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20888 Venustiano Lopez Carranza and Patricia Hernandez**

**Chapter 7**

**#1.00** HearingRE: [39] Motion to Allow Claim 18 of Nissan Motor Acceptance Corporation as Late Filed, Allowable Against Surplus Only, with proof of service (Pringle (TR), John)

Docket 39

**Tentative Ruling:**

10/19/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED.

**Pleadings Filed and Reviewed**

- 1) Motion to Allow Claim 18 of Nissan Motor Acceptance Corporation as Late Filed, Allowable Against Surplus Only (the "Motion") [Doc. No. 39]
- 2) Opposition to Motion to Allow Claim 18 of Nissan Motor Acceptance Corporation as Late Filed, Allowable Against Surplus Only (the "Opposition") [Doc. No. 42]
- 3) Reply in Support of Motion to Allow Claim 18 of Nissan Motor Acceptance Corporation as Late Filed, Allowable Against Surplus Only (the "Reply") [Doc. No. 43]

**I. Facts and Summary of Pleadings**

Venustiano Lopez Carranza and Patricia Hernandez (the "Debtors") filed their voluntary chapter 7 petition (the "Petition") on September 13, 2019. Shortly thereafter, John Pringle was appointed the chapter 7 trustee in this matter (the "Trustee"). In their Petition, the Debtors listed "Nissan Motor Acceptance" as a creditor, with one claim in the amount of \$20,589. *See* Chapter 7 Voluntary Petition at 9-10 [Doc. No. 1]. On October 31, 2019, the Trustee filed a Notice of Assets, fixing the proof of claims date as February 3, 2020 [Doc. No. 14]. On December 3, 2019, the Court approved a



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compromise between the Trustee and the Debtors, whereby the Debtors would pay the estate \$65,000 to settle a dispute over the transfer of real property (the "Settlement Agreement"). The Settlement Agreement reads, in pertinent part, that "[i]f there is any overage in the Settlement Funds **after 100% distribution to creditors** and all administrative expenses have been paid, the Trustee will pay Defendant Jessey Carranza any overage amount." *See* Settlement Agreement at 12 [Doc. No. 17 - emphasis added.]

After the claims date had passed, Nissan Motor Acceptance Corporation ("Nissan Motor") filed a proof of claim on September 14, 2020. On September 17, 2020, the Trustee filed his Motion to allow Nissan Motor's claim of \$19,050.71 as late filed, allowable against a surplus only, pursuant to 11 U.S.C. § 726(a)(3).

On October 6, 2020, the Debtors filed their Opposition. In their Opposition, the Debtors argue that 11 U.S.C. § 509(b)(9) bars untimely filed claims. The Debtors state that Rule 3002(c)(6) provides that claims may only be filed late if notice to the creditors was insufficient. Because Nissan Motor received proper notice, the Debtors argue, its claim should not be allowed. In addition, the Debtors claim that late filed claims may also only be allowed if the creditor can show "excusable neglect" as defined by 11 U.S.C. § 9006(b). Finally, the Debtors argue that there is no surplus to be distributed because the remaining funds in the estate are already earmarked for Jessey Carranza (the Debtors' son).

On October 8, 2020, the Trustee filed his Reply. The Trustee argues that the Opposition fails to note that 11 U.S.C. § 726(a)(3) allows tardily filed claims of any sort (even absent problems with notice or excusable neglect), but those claims would fall to the bottom of the order of distribution. The Trustee also believes that there is a surplus of funds in the estate because the language of the Settlement Agreement only allows for payment of funds to the Debtors' son after all creditors are paid. Finally, the Trustee asserts that the entire Opposition ought to be rejected because it contains no declarations, as required by Local Bankruptcy Rule ("LBR") 9013-1(i), and because it does not advise opposing counsel that he has the opportunity to file a reply seven days before the hearing on this matter, as required by LBR 9013-1(f)(2).

## **II. Findings of Fact and Conclusions of Law**

The Trustee files his Motion pursuant to 11 U.S.C. § 726(a)(3), which reads:

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**Chapter 7**

Except as provided in section 510 of this title, property of the estate shall be distributed—

third, in payment of any allowed unsecured claim of proof of which is tardily filed under subsection 501(a) of this title . . .

Section 501(a) reads "[a] creditor or an indenture trustee may file a proof of claim." The Debtors mischaracterize the Trustee's Motion because while 11 U.S.C. § 502(b) (9) bars untimely claims, the Debtors fail to recognize the exception within that section, which reads that claims may be "tardily filed as permitted under (1), (2), or (3) of section 726(a)." The plain language of § 726(a)(3) makes clear that a claim may be tardily filed, but its order of distribution is third.

In addition, the Debtors' argument that Rule 3002(c)(b) applies is inapposite. Rule 3002(c)(b) is only applicable in instances where the creditor is requesting an extension of time to *timely* file a claim. Here, neither Nissan Motor nor the Trustee are not arguing that Nissan Motor's claim is timely. The Trustee explicitly states: "[b]ecause *the Claim was filed late*, it should be allowed to receive a distribution against a surplus, if any, pursuant to 11 U.S.C Section 726(a)(3)." Motion at 1 (emphasis added). Rule 9006(b) is likewise inapplicable because the Trustee is not seeking any sort of "enlargement" of the time to *timely* file a claim.

Therefore, the proof of claim is tardily filed under 11 U.S.C. § 726(a)(3) and shall be allowed to receive a distribution against a surplus, if any [**Note 1**].

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED.

The Trustee is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and**

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**appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** While the Court has decided to entertain the Debtors' Opposition despite the clear violation of LBR 9013-1(i) and 9013-1(f)(2), the Debtors' counsel is warned that complying with the Local Bankruptcy Rules is not an optional practice.

<b>Party Information</b>
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**Debtor(s):**

Venustiano Lopez Carranza

Represented By  
Erika Luna

**Joint Debtor(s):**

Patricia Hernandez

Represented By  
Erika Luna

**Trustee(s):**

John P Pringle (TR)

Represented By  
Michelle A Marchisotto

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**2:18-20698 United International Mortgage Solutions, Inc.**

**Chapter 11**

**#2.00** HearingRE: [189] U.S. Trustee Motion to dismiss or convert or appoint a Chapter 11 Trustee . (Attachments: # 1 BANS # 2 COS)(united states trustee (hy))

Docket 189

**Tentative Ruling:**

10/19/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED, and this case is DISMISSED.

**Pleadings Filed and Reviewed**

- 1) U.S. Trustee's Motion to Dismiss or Convert or Appoint a Chapter 11 Trustee (the Motion to Dismiss or Convert") [Doc. No. 189]
- 2) Debtor's Limited Opposition to U.S. Trustee's Motion to Dismiss or Convert or Appoint a Chapter 11 Trustee; Declaration of Bankruptcy Analyst (the "Limited Opposition") [Doc. No. 194]

**I. Facts and Summary of Pleadings**

Debtor and Debtor-in-Possession, United International Mortgage Solutions, Inc. (the "Debtor"), filed its voluntary chapter 11 bankruptcy petition on September 12, 2018. The Debtor is a California corporation that owns three residential real properties:

- 1) 1258 N. Virgil Avenue, Los Angeles, CA 90029 (the "Virgil Property");
- 2) 5935 Playa Vista Drive, #414, Playa Vista, CA 90094 (the "Playa Vista Property"); and
- 3) 6205 Senford Avenue, Los Angeles, CA 90056 (the "Senford Property," and together with the Virgil Property and Playa Vista Property, the "Properties")

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**Chapter 11**

The Debtor filed its petition to address several defaulted loans secured by liens on the Properties and to reorganize its affairs. The liens on each property are as follows:

- 1) Virgil Property
  - a. Mr. Cooper - \$882,107
  - b. Errol Gordon, Esq. - \$50,000
- 2) Playa Vista Property
  - a. Mr. Cooper/Nationstar - \$857,177
  - b. Playa Vista Parks HOA - \$70,080
  - c. Villa d'Este HOA - \$31,855
- 3) Senford Property
  - a. Errol Gordon, Esq. - \$285,000
  - b. L.A. County Treasurer and Tax Collector - \$97,939

Motion at 2; *see also* Debtor's Reply to Order to Show Cause at 2-3 [Doc. No. 177]. The other debts of the estate include \$400 to the Internal Revenue Service, \$2,542 to the Franchise Tax Board, and \$723 of general unsecured debts. On April 24, 2019, the Debtor filed an amended chapter 11 plan (the "Plan"). On September 4, 2019, the Court denied confirmation of the Debtor's Plan.

The Debtor remains current on the senior liens for the Playa Vista Property and the Senford Property. However, on July 1, 2020, the Debtor notified the court that it was unable to refinance the lien on the Virgil Property and would instead seek to sell it. On July 17, 2020, the Court held a hearing on an Order to Show Cause where the Debtor confirmed that it had listed the Virgil Property for sale and requested 90 days to effectuate such a sale. The Court expressed concern over the fact that the case had been struggling for almost a year and told the Debtor's counsel that if a chapter 11 plan of reorganization was not confirmed by October 30, 2020, then the Court would convert or dismiss the case without further hearing.

On September 21, 2020, the U.S. Trustee filed its Motion to Dismiss or Convert. In that motion, the U.S. Trustee requests conversion to chapter 7 because the Debtor has not filed a monthly operating report for August 2020, and has not paid the quarterly filing fees for the second or third quarters of 2020. On September 23, 2020, the Debtor filed its August monthly operating report [Doc. No. 193]. On October 6,

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2020 the Debtor filed its Limited Opposition. In its Limited Opposition, the Debtor notes that it has accepted an offer from W. Spaulding Settle to purchase the Virgil Property for \$2,100,000. At that price, the Debtor expects to be able to pay off all liens against the Virgil Property, as well as the Internal Revenue Service debt, the Franchise Tax Board debt, the Playa Vista Parks HOA, the Villa d'Este HOA, and the general unsecured debts. In addition, the Debtor attached, as an exhibit, proof of payment of the second quarter fees to the U.S. Trustee. Limited Opposition at 8.

## **II. Findings of Fact and Conclusions of Law**

Under § 1112(b), the Court shall dismiss or convert a case to one under chapter 7 upon a showing of "cause." 11 U.S.C. § 1112(b). Section 1112(b)(4) provides a nonexclusive list of factors that include "(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;" and "(H) failure to timely provide information or attend meetings reasonably required by the United States Trustee." 11 U.S.C. § 1112(b)(4)(F) & (H). "The enumerated causes are not exhaustive, and 'the court will be able to consider other factors as they arise, and to use its equitable powers to reach an appropriate result in individual cases.'" *In re Consol. Pioneer Mortg. Entities*, 248 B.R. 368, 375 (B.A.P. 9th Cir. 2000) (quoting H.R. No. 95-595, 95th Cong., 1st Sess. 405-06 (1977)), *aff'd*, 264 F.3d 803 (9th Cir. 2001).

While the Debtor has filed its August monthly operating report and paid its fees for the second quarter of 2020, the case has been pending since 2018 and no amended plan has been filed such that it could be confirmed by the Court's mandated October 30, 2020 deadline. In addition, the Debtor does not dispute that the case ought to be dismissed or converted. Rather, the Debtor requests that the "UST's Motion to Dismiss/Convert be granted only to the extent that the case is dismissed." Limited Opposition at 3. Therefore, the Court finds that cause exists to dismiss or convert the case.

Having determined that cause exists, the only issue remaining for the Court is to determine whether conversion, dismissal, or appointment of a Chapter 11 trustee serves the best interests of creditors or the estate. *See In re Products Int'l Co.*, 395 B.R. 101, 107 (Bankr. D. Ariz. 2008) (citing *In re Nelson*, 343 B.R. 671 (9th Cir. 2006)). "[W]hen deciding between dismissal and conversion under 11 U.S.C. § 1112(b), the court must consider the interests of *all* of the creditors." *Shulkin Hutton*,

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*Inc. v. Treiger (In re Owens)*, 552 F.3d 958, 961 (9th Cir. 2009) (emphasis in original) (quoting *Rollex Corp. v. Associated Materials, Inc. (In re Superior Siding & Window, Inc.)*, 14 F.3d 240, 243 (4th Cir. 1994)).

As the Debtor has accepted a purchase offer for its Virgil Property that would pay off the liens and debts of the estate in full, it appears as though dismissal is in the best interest of creditors. The Court finds that there does not appear to be the need for a chapter 11 trustee, which would only cost the estate valuable funds, and the debtor has only minimal unsecured debts.

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED, and this case is DISMISSED with a 180-day bar to re-filing. In addition, the Debtor is ordered to pay any outstanding fees to the U.S. Trustee.

The U.S. Trustee is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

United International Mortgage

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

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**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

- #1.00** Hearing re [76] and [77] Plaintiffs' Motion For Reconsideration Of "Order Discharging ... Order Requiring Defendant To Show Cause Why Defendant's Answer Should Not Be Stricken And Why Default Judgment Should Not Be Entered In Favor Of Plaintiff" . [Relates To Doc. Nos. 76–77].

Docket 0

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Court will not strike Defendant's Answer and enter Defendant's default. However, by separate order, the Court will require Defendant to show cause why he should not be required to return control of the Vendor Account (defined below) to Plaintiffs.

**Pleadings Filed and Reviewed:**

- 1) Plaintiffs' Notice of Motion for Reconsideration of the Court's Memorandum of Decision Discharging Order Requiring Defendant to Show Cause Why Defendant's Answer Should Not Be Stricken and Why Default Judgment Should Not Be Entered in Favor of Plaintiff [Doc. No. 76] (the "Motion")
  - a) Request for Judicial Notice in Support of [Motion] [Doc. No. 76-1]
  - b) Application for Order Setting Hearing on Shortened Notice [Doc. No. 77]
- 2) Order Setting Hearing on Plaintiffs' Motion for Reconsideration of "Order Discharging ... Order Requiring Defendant to Show Cause Why Defendant's Answer Should Not Be Stricken and Why Default Judgment Should Not Be Entered in Favor of Plaintiff" [Doc. No. 79]



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- 3) Opposition to Motion for Reconsideration [Doc. No. 85]
- 4) Plaintiffs' Reply in Support of Motion for Reconsideration [Doc. No. 90]

### **I. Facts and Summary of Pleadings**

On August 3, 2020, the Court issued an order requiring Defendant to show cause why his Answer should not be stricken and why default judgment should not be entered in favor of Plaintiffs [Doc. No. 63] (the "OSC"). Issuance of the OSC was based upon Defendant's failure to fulfill any of his obligations in connection with the Pretrial Conference. Specifically, Defendant (1) failed to cooperate with Plaintiff in the preparation of a proposed Joint Pretrial Stipulation, even after Plaintiff served a copy of the proposed Pretrial Stipulation upon Defendant by overnight courier, attempted to contact Defendant by telephone, and attempted to contact Defendant by e-mail; (2) failed to respond to Plaintiffs' attempts to meet and confer regarding the Pretrial Stipulation; and (3) failed to provide Plaintiffs with trial exhibits or a list of proposed witnesses.

Defendant's counsel failed to file a written response to the OSC by August 19, 2020, as ordered by the Court. Instead, counsel filed a response on the day prior to the hearing. As an explanation for his non-compliance, counsel stated that during the month of July 2020, he was required to care for his spouse, who had been diagnosed with COVID-19. Counsel stated that he contracted COVID-19 in late July 2020, and did not return to work until September 3, 2020.

The Court conducted a hearing on the OSC on September 9, 2020. On September 10, 2020, the Court issued a memorandum of decision [Doc. No. 71] (the "Memorandum") and accompanying order [Doc. No. 72] (the "Order") discharging the OSC. The Court found that "[a]lthough Defendant could have, and should have, exercised much greater diligence with respect to this litigation, the striking of Defendant's Answer and the entry of Defendant's default would be too extreme a remedy." Memorandum at 2. The Court further found that the approximately four-month delay resulting from Defendant's dilatory conduct had not unduly prejudiced Plaintiffs, because there was no indication that the delay had resulted in the loss of evidence or loss or memory by a witness. *Id.* Finally, the Court found that while the hardships imposed by the COVID-19 pandemic were not an excuse to disregard litigation obligations, Defendant's delay did not involve the kind of "willfulness, fault, or bad faith" sufficient to support a case-dispositive sanction. *R & R Sails, Inc. v. Ins. Co. of Pennsylvania*, 673 F.3d 1240, 1247 (9th Cir. 2012).

Plaintiffs move for reconsideration of the Memorandum and Order and the

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imposition of case-dispositive sanctions. Plaintiffs assert that reconsideration is warranted for the following reasons:

- 1) Contrary to the representations made to the Court, Defendant's counsel was able to practice law in July and August 2020. On July 14 and August 14, 2020, counsel appeared before the Hearing Department of the State Bar of California by videoconference. On August 20, 2020, counsel appeared at a case management conference in the action *Heritage Industry v. City of Los Angeles* (20-CV-6119 MRW, pending in the U.S. District Court for the Central District of California).
- 2) Plaintiffs will be prejudiced by the delay in the trial. In his response to the OSC, Defendant stated that he was no longer competing with Plaintiffs. That statement is not correct. Defendant continues to operate a competing business, Tac Crew LLC ("Tac Crew"). Through Tac Crew, Defendant retains control of an Amazon.com vendor account owned by Plaintiff GS-LLC (the "Vendor Account"). Defendant refuses to return control of the Vendor Account to Plaintiffs, and Plaintiffs have been unable to obtain control of the Vendor Account by communicating with Amazon.com. Plaintiffs have been advised that the Vendor Account is in arrears and is at risk of being closed. Plaintiffs' attempts to cure the arrearage have been unsuccessful because Plaintiffs lack access to the Vendor Account. If the Vendor Account is closed, Plaintiffs will lose a valuable sales channel, and Plaintiffs' ability to do business with Amazon.com in the future may be compromised. In addition, Plaintiffs' lack of access to the Vendor Account and the information contained therein makes it more difficult for Plaintiffs to honor product warranties.

Defendant makes the following arguments in his Opposition to the Motion:

- 1) The fact that Defendant's counsel made appearances in three matters in August and July 2020 does not contradict counsel's prior representation to the Court that he was unable to practice law during that time. All appearances were made remotely from counsel's residence. For the appearances before the California State Bar, counsel was represented and was not required to actively participate. The August telephonic appearance in the case management conference was made while counsel was

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- bedridden.
- 2) Defendant has not operated a competing business for many months. Tac Crew's last sale on a wholesale level was in December 2019 and its last individual sale was in May 2020. McMillin Decl. ¶ 3. Tac Crew's website was shut down subsequent to May 2020. *Id.* at ¶ 5.
  - 3) Defendant has no connection to the Vendor Account. To the extent that the Vendor Account exists, Defendant "stands ready and willing to cooperate in any way necessary to alleviate any 'prejudice' to Plaintiff." Opposition at 3.

Plaintiffs make the following arguments in Reply to Defendant's Opposition:

- 1) The declaration submitted by Defendant McMillin in support of the Opposition contains several demonstrably false statements. First, as of October 9, 2020, Tac-Crew's website remains online, and Tac Crew continues to sell products. Second, contrary to Defendant's statement that Tac Crew's last sale on a wholesale basis was in December 2019, Tac Crew completed a wholesale-level sale on April 3, 2020. Third, while communicating with Amazon.com in an attempt to regain access to the Vendor Account, Plaintiffs were advised that the Vendor Account had been transferred to Tac Crew. This shows that Defendant continues to have control over the Vendor Account, and that he used this control to transfer the Vendor Account to his new company, Tac Crew.
- 2) Defendant's counsel has not sufficiently demonstrated that he was unable to fulfill his responsibilities in connection with this action in July and August 2020. Counsel admits appearing at several hearings remotely, which shows that he was capable of practice law during this time.

## **II. Findings and Conclusions**

### **A. The Motion is Denied**

Reconsideration is "an 'extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources.'" *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003) (internal citation omitted). "[A] motion for reconsideration should not be granted, absent highly unusual circumstances, unless the ... court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law.' A Rule 59(e) motion may *not* be used to

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raise arguments or present evidence for the first time when they could reasonably have been raised earlier in the litigation.” *Kona Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (internal citation omitted).

The Court is cognizant of the fact that in connection with the hearing on the OSC, Plaintiffs did not have a meaningful opportunity to respond to Defendant’s opposition, which was filed on the day prior to the hearing. This Motion has provided Plaintiffs the opportunity to respond to Defendant’s prior untimely opposition. Having reviewed the additional evidence and arguments submitted by Plaintiffs, the Court declines to depart from the findings set forth in the Memorandum and Order.

First, Plaintiffs argue that contrary to his prior representations to the Court, Defendant’s counsel was in fact capable of practicing law during July and August 2020. Plaintiffs point to the fact that Defendant’s counsel appeared at three hearings during this time period.

The fact that counsel was able to appear remotely at three hearings does not alter the Court’s finding that under the circumstances, the striking of Defendant’s Answer and the entry of his default would be too extreme a remedy. At two of the hearings, counsel was represented and so was not required to meaningfully participate; at the remaining hearing, counsel appeared remotely while bedridden. As the Court has previously emphasized, the difficulties experienced by counsel and his spouse in connection with the Covid-19 pandemic do not excuse counsel’s failure to attend to his litigation obligations. However, it is also true that the “the public policy favoring disposition of cases on their merits strongly counsels against dismissal,” *In re Phenylpropanolamine (PPA) Prod. Liab. Litig.*, 460 F.3d 1217, 1227 (9th Cir. 2006); that the Court cannot impose a case-dispositive sanctions absent “willfulness, fault, or bad faith,” *R & R Sails, Inc. v. Ins. Co. of Pennsylvania*, 673 F.3d 1240, 1247 (9th Cir. 2012); and that a case-dispositive sanction cannot be imposed unless lesser sanctions prove incapable of remediating Defendant’s dilatory conduct, *Connecticut Gen. Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d 1091, 1096 (9th Cir. 2007). Here, counsel’s neglect of the case stemming from hardships he and his family experienced in connection with the Covid-19 pandemic does not warrant the harsh remedy of a terminating sanction.

Second, Plaintiffs argue that they have been prejudiced by the delay given the possibility that the Vendor Account may be closed before they have the opportunity to establish their rights in the Vendor Account at trial.

The “risk of prejudice to the party who has litigated diligently” is among the factors the Court must consider in determining whether to impose a case-dispositive

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sanction. *Moneymaker v. CoBEN (In re Eisen)*, 31 F.3d 1447, 1451 (9th Cir. 1994). “Prejudice itself usually takes two forms—loss of evidence and loss of memory by a witness.” *Nealey v. Transportacion Maritima Mexicana, S. A.*, 662 F.2d 1275, 1281 (9th Cir. 1980).

The prejudice that Plaintiffs may suffer through possible cancellation of the Vendor Account is not the kind of prejudice that is appropriately addressed through a case-dispositive sanction. Plaintiffs could have availed themselves of any number of pre-judgment remedies to safeguard their rights in the Vendor Account. The reason that loss of evidence or loss of memory qualify as prejudicial for purposes of a case dispositive sanction is that either of these events make it difficult, if not impossible, for a diligent litigant to obtain a fair trial on the merits. By contrast, any prejudice suffered by Plaintiffs in connection with the Vendor Account will not interfere with their ability to present their claims and evidence to the Court. However, as discussed below, the Court will require Defendant to show cause why he should not be required to return control of the Vendor Account to Plaintiffs.

Plaintiffs also state that they are prejudiced by delay because the currently scheduled trial, unlike the prior trial, is not scheduled to take place by videoconference. Plaintiffs state that their primary witness, Yanlin Wu, resides in China and cannot travel to the United States until the *United States Presidential Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Persons who Pose a Risk of Transmitting 2019 Novel Coronavirus* (the “Coronavirus Proclamation”) is lifted.

Provided that Plaintiffs demonstrate that Mr. Wu’s appearance by videoconference does not violate Chinese law [**Note 1**], the Court will permit Mr. Wu to appear at the trial by videoconference if the Coronavirus Proclamation is still in effect at the time of the trial.

**B. The Court Will Require Defendant to Show Cause Why He Should Not Be Required to Return Control of the Vendor Account to Plaintiffs**

In his Opposition to the Motion, Defendant states that he “stands ready and willing to cooperate in any way necessary to alleviate any ‘prejudice’ to Plaintiff[s]” in connection with the Vendor Account. Plaintiffs have submitted evidence establishing that the Vendor Account is now under the control of Tac Crew LLC, an entity controlled by Defendant. *See* Second Declaration of Phillip Liu in Support of Plaintiff’s Motion for Reconsideration [Doc. No. 90-2] at ¶ 4 and Ex. 4 (e-mail from Amazon.com stating that the Vendor Account is controlled by Tac Crew).

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By separate order, the Court will require Defendant to show cause why he should not be required to return control of the Vendor Account to Plaintiffs. The hearing on the Order to Show Cause shall take place on **November 18, 2020, at 10:00 a.m.** Defendant shall file a written response to the Order to Show Cause no later than **October 28, 2020**. Plaintiffs' opposition to Defendant's response shall be filed no later than **November 4, 2020**. Defendant's reply to Plaintiff's opposition shall be filed no later than **November 11, 2020**.

**C. The Litigation Dates Previously Ordered Are Extended**

The Court declined Plaintiffs' request to set a hearing on this Motion on shortened notice, finding that Plaintiffs would have sufficient time to prepare for trial even if the Motion were heard on regular notice. Upon Plaintiffs' motion, the Court has previously extended the deadline for Plaintiffs to file a motion for summary judgment or other case-dispositive motion to November 24, 2020 (the "Motion Cutoff Date"). Doc. No. 86. The current Motion Cutoff Date does not leave Plaintiffs sufficient time to file a motion for summary judgment, which must be heard on 42 days' notice under the Local Bankruptcy Rules. To provide Plaintiffs the opportunity to file a case-dispositive motion, the previously-ordered litigation deadlines are extended, as follows:

- 1) The Motion Cutoff Date is **January 13, 2021**.
- 2) A Pretrial Conference is set for **March 9, 2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties shall submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- 3) Trial is set for the week of **March 29, 2021**. The trial day commences at 9:00 a.m. The exact date(s) of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

**III. Conclusion**

Based upon the foregoing, the Court will not strike Defendant's Answer and enter Defendant's default.

The Court will prepare and enter an appropriate order.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 21, 2020

Hearing Room 1568

10:00 AM

CONT... Ryan James McMillin

Chapter 7

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

The Court makes no determination as to whether Mr. Wu's appearance by videoconference would violate Chinese law. Should Plaintiffs wish to cause Mr. Wu to appear by videoconference, they shall submit briefing demonstrating that his appearance would not violate Chinese law concurrently with the submission of the proposed Joint Pretrial Stipulation.

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Represented By  
Steven J Renshaw  
Errol J Zshornack  
Peter J Tormey

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Represented By  
Peter J Tormey  
Errol J Zshornack

G-Sight Solutions, LLC, a California

Represented By  
Peter J Tormey

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Ryan James McMillin**

Errol J Zshornack

**Chapter 7**

**Trustee(s):**

Heide Kurtz (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-19233 Oak River Asset Management LLC**

**Chapter 11**

**#2.00** HearingRE: [244] Application for Compensation First And Final Application For Compensation And Reimbursement Of Expenses Of Grobstein Teeple, LLP As Accountants For The Chapter 11 Debtor; Declaration Of Howard B. Grobstein In Support Thereof for Grobstein Teeple LLP, Accountant, Period: 4/10/2019 to 9/21/2020, Fee: \$26,995.00, Expenses: \$139.97.

Docket 244

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below on a final basis:

Fees: \$26,995.00

Expenses: \$139.97

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Oak River Asset Management LLC**

**Chapter 11**

**Debtor(s):**

Oak River Asset Management LLC

Represented By

David B Golubchik

Jeffrey S Kwong

Eve H Karasik

Robert Thomas Bryson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-19233 Oak River Asset Management LLC**

**Chapter 11**

**#3.00** HearingRE: [246] Application for Compensation - Second And Final Application Of Levene, Neale, Bender, Yoo & Brill L.L.P. For Approval Of Fees And Reimbursement Of Expenses; Declaration Of David B. Golubchik In Support Thereof for Levene, Neale, Bender, Yoo & Brill L.L.P., Debtor's Attorney, Period: 9/16/2018 to 9/25/2020, Fee: \$101,067.00, Expenses: \$3,300.11.

Docket 246

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (fees previously awarded on an interim basis are now confirmed as final):

Fees: \$356,945.00 (consisting of \$255,878.00 awarded on an interim basis on October 24, 2018 [Doc. No. 157] and \$101,067.00 sought in connection with this application)

Expenses: \$13,219.74 (consisting of \$9,919.63 awarded on an interim basis on October 24, 2018 [Doc. No. 157] and \$3,300.11 sought in connection with this application)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Oak River Asset Management LLC**

**Chapter 11**

**Party Information**

**Debtor(s):**

Oak River Asset Management LLC

Represented By

David B Golubchik

Jeffrey S Kwong

Eve H Karasik

Robert Thomas Bryson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-19233 Oak River Asset Management LLC**

**Chapter 11**

**#4.00** HearingRE: [247] Application for Compensation - Second And Final Application Of Special Litigation Counsel, Yadegar, Minoofar & Soleymani LLP For Approval Of Fees And Reimbursement Of Expenses; Declaration Of Pedram Minoofar In Support Thereof for Yadegar, Minoofar & Soleymani LLP, Special Counsel, Period: 9/18/2018 to 7/31/2020, Fee: \$64,509.00, Expenses: \$10,952.98.

Docket 247

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (fees previously awarded on an interim basis are now confirmed as final):

Fees: \$542,996.18 (consisting of \$478,487.18 awarded on an interim basis on October 24, 2018 [Doc. No. 157] and \$64,509.00 sought in connection with this application)

Expenses: \$21,510.82 (consisting of \$10,557.84 awarded on an interim basis on October 24, 2018 [Doc. No. 157] and \$10,952.98 sought in connection with this application)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Oak River Asset Management LLC**  
hearing.

**Chapter 11**

**Party Information**

**Debtor(s):**

Oak River Asset Management LLC

Represented By

David B Golubchik

Jeffrey S Kwong

Eve H Karasik

Robert Thomas Bryson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-19233 Oak River Asset Management LLC**

**Chapter 11**

**#5.00** HearingRE: [248] Application for Compensation - Second And Final Application Of SierraConstellation Partners, LLC For Approval Of Fees And Reimbursement Of Expenses; Declaration Of Lawrence R. Perkins In Support Thereof for SierraConstellation Partners, LLC, Other Professional, Period: 10/1/2018 to 9/21/2020, Fee: \$31,497.50, Expenses: \$0.00.

Docket 248

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (fees previously awarded on an interim basis are now confirmed as final):

Fees: \$51,512.25 (consisting of \$20,014.75 awarded on an interim basis on October 24, 2018 [Doc. No. 157] and \$31,497.50 sought in connection with this application)

Expenses: \$298.70 (consisting of \$298.70 awarded on an interim basis on October 24, 2018 [Doc. No. 157] and \$0.00 sought in connection with this application)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Oak River Asset Management LLC**

**Chapter 11**

**Debtor(s):**

Oak River Asset Management LLC

Represented By

David B Golubchik

Jeffrey S Kwong

Eve H Karasik

Robert Thomas Bryson



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Wednesday, October 21, 2020

Hearing Room 1568

10:00 AM

2:19-13797 Liboria Zavalza

Chapter 11

#6.00 **Post-Confirmation Status Hearing** re Confirmation of Chapter 11 Plan of Reorganizaton

fr. 1-8-20; 4-8-20; 4-15-20; 7-15-20

Docket 79

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, a Continued Post-Confirmation Status Conference shall take place on **February 24, 2020 at 10:00 a.m.**

**I. Pleadings Filed and Reviewed:**

1. Debtor's Post-Confirmation Status Report (the "Status Report") [Doc. No. 143]

**I. Facts and Summary of the Pleadings**

Liboria Zavalza (the "Debtor") filed a voluntary chapter 11 petition on April 3, 2019. The Debtor filed an amended chapter 11 plan of reorganization (the "Plan") on May 15, 2020. On July 17, 2020 the Court confirmed the Plan. On October 7, 2020, the Debtor filed a Status Report, indicating that she: 1) has commenced making the required payments to creditors pursuant to the Plan; 2) is not aware of any new tax liabilities that have accrued or come due; 3) anticipates that she will be able to and will comply with all terms of the Plan; and 4) will be filing a motion for entry of a final decree so as to close the case, and then reopen the case to get her discharge at the conclusion of the five year term of the Plan.

**II. Findings and Conclusions**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, October 21, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**Liboria Zavalza**

**Chapter 11**

A Continued Post-Confirmation Status Conference shall be held on **February 24, 2020 at 10:00 a.m.** The Debtor must submit a Post-Confirmation Status Report no later than fourteen days prior to the hearing. The debtor shall file a motion for final decree no later than **January 8, 2020**. If a favorable order on the motion for final decree is entered, the Continued Status Conference will go off calendar.

The Debtor shall submit an order setting the Continued Status Conference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Liboria Zavalza

Represented By

Lionel E Giron

Crystle Jane Lindsey

Joanne P Sanchez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-21593 C & F Sturm, LLC**

**Chapter 11**

**#7.00** Hearing  
RE: [49] Motion for order confirming chapter 11 plan of Liquidation  
  
fr. 7-15-20

Docket 49

**Tentative Ruling:**

10/20/20

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The tentative ruling is to CONTINUE the Confirmation Hearing to **December 2, 2020 at 10:00 a.m.** The Court has reviewed the Debtor's status report filed on September 30, 2020 [Doc. No. 65], which states that the Debtor received a purchase offer for its property located at 511 and 515 Las Vegas Boulevard South, Las Vegas, Nevada 89101 (the "Property") and opened escrow on September 21, 2020. The buyer has a 45-day contingency period that will expire on November 5, 2020. The Debtor states that if the buyer agrees to waive contingencies and proceed with the purchase, the Debtor will file a motion for sale of the Property. The proposed purchase price of \$1,471,000 will allow the Debtor to pay off creditors in full, as set forth in the Debtor's Amended Plan.

By no later than **November 18, 2020**, the Debtor is directed to file a status report updating the Court on the status of the sale of the property.

The Court will enter the order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Hearing Room 1568**

10:00 AM

**CONT... C & F Sturm, LLC**

**Chapter 11**

**first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

C & F Sturm, LLC

Represented By  
Stella A Havkin

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24704 Jesus Navarro Jr**

**Chapter 7**

**#8.00 Hearing**

RE: [43] Application for Compensation First and Final Application of Lane & Nach, P.C., Attorneys for Trustee; Declaration of Adam B. Nach in support thereof with proof of service for Lane & Nach, P.C., Trustee's Attorney, Period: 6/24/2020 to 10/5/2020, Fee: \$8238.87, Expenses: \$211.13.

Docket 43

**\*\*\* VACATED \*\*\* REASON: NOTICE OF VACATED HEARING FILED  
10-13-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Jesus Navarro Jr

Represented By  
Daniel King

**Trustee(s):**

Timothy Yoo (TR)

Represented By  
Kristofer R McDonald

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 21, 2020

Hearing Room 1568

11:00 AM

2:20-10264 450 S. Western, LLC, a California limited liability

Chapter 11

#100.00 Hearing

RE: [201] Application for Compensation - First Interim Application by Counsel for the Committee of Unsecured Creditors for Compensation and Reimbursement of Expenses re Lewis Brisbois Bisgaard & Smith

Docket 201

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below on an interim basis:

Fees: \$145,858.50

Expenses: \$219.03

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut

Amelia Puertas-Samara

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

11:00 AM

**2:20-10264 450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

**#101.00** Hearing

RE: [203] Application for Compensation -- First Interim Fee Application Of Arent Fox LLP, Chapter 11 General Bankruptcy Counsel To Debtor, For Allowance Of Compensation And Reimbursement Of Expenses For The Period From January 11, 2020 Through And Including September 18, 2020

Docket 203

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below on an interim basis:

Fees: \$367,027.50

Expenses: \$18,843.45

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... 450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut

Amelia Puertas-Samara

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 21, 2020

Hearing Room 1568

11:00 AM

2:20-10264 450 S. Western, LLC, a California limited liability

Chapter 11

#102.00 HearingRE: [206] Application for Compensation -- Application for Payment of Interim Fees and/or Expenses (11 U.S.C. § 331), with Proof of Service for Law Offices of Daniel M Shapiro, Special Counsel, Period: 1/10/2020 to 9/29/2020, Fee: \$28,794.50, Expenses: \$1,146.68.

Docket 206

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below on an interim basis:

Fees: \$28,794.50

Expenses: \$1,146.68

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

450 S. Western, LLC, a California

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 21, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**450 S. Western, LLC, a California limited liabilit**

**Chapter 11**

Aram Ordubegian

Christopher K.S. Wong

M Douglas Flahaut

Amelia Puertas-Samara

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 21, 2020

Hearing Room 1568

11:00 AM

2:19-13763 Ya-Chuan Victor Lee

Chapter 11

#103.00 HearingRE: [131] Motion For Order Imposing Automatic Stay to Wholly Owned Business of Debtor (Advanced Body Collision, Inc) Pursuant to 11 U.S.C. 105, 362(a); Directing the California Department of Tax and Fee Administration to Release Levied Monies Taken (with proof of service)

Docket 131

**Tentative Ruling:**

10/20/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is DENIED.

**Pleadings Filed and Reviewed**

- 1) Debtor's Motion for Order Imposing Automatic Stay to Wholly Owned Business of Debtor Pursuant to 11 U.S.C. §§ 105 & 362(a); Directing the California Department of Tax and Fee Administration to Release Levied Monies Taken; and Declaration of Ya-Chuan Victor Lee in Support Thereof (the "Motion") [Doc. No. 131/134]
- 2) California Department of Tax and Fee Administration's Opposition to Debtor's Motion for Order Imposing Automatic Stay to Wholly Owned Business of Debtor (the "Opposition") [Doc. No 138]
- 3) Debtor's Reply to California Department of Tax and Fee Administration's Opposition (the "Reply") [Doc. No. 139]

**I. Facts and Summary of Pleadings**

Ya-Chuan Victor Lee (the "Debtor") filed his voluntary individual chapter 11 petition on April 3, 2019. In his petition, the Debtor specified that he worked at, and held a 100% ownership interest in, Advanced Body Collision, Inc. Auto Body and

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Hearing Room 1568

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11:00 AM

CONT... Ya-Chuan Victor Lee

Chapter 11

Paint ("ABC"). The Debtor also checked the box to clarify that, while he was filing under chapter 11, he was not filing as a small business debtor. *See* Voluntary Individual Chapter 11 Petition at 4 [Doc. No. 1].

Sometime around the last quarter of 2019, the California Department of Tax and Fee Administration (the "CDTFA") audited ABC, resulting in a tax delinquency of \$108,061.00. Motion at 3; *see also* Exhibit A to the Motion. On behalf of ABC, the Debtor claims that he had worked out a repayment plan with the CDTFA whereby ABC would pay the CDTFA approximately \$6,000 per month. Declaration of Ya-Chuan Victor Lee ("Lee Decl.") at ¶ 6. The Debtor then claims that after contacting the CDTFA to reduce ABC's \$6,000 monthly payment, he received notice of a levy against ABC. *Id.* The notice of levy was mailed on September 9, 2020, and informed ABC that it owed the CDTFA \$135,816.17. *See* Exhibit A to the Motion. On September 14, 2020, ABC received notice from its bank that \$37,668.13 had been withheld from its account, to be remitted to the CDTFA on or around September 25, 2020. *Id.*

On September 30, 2020, the Debtor filed the instant Motion with an application for an order setting the hearing on shortened notice. That same day, the Court denied the application and set the Motion for hearing on regular notice.

**Summary of the Debtor's Motion**

In his Motion, the Debtor requests that the court use "its extraordinary powers under 11 U.S.C. § 105(a)" to extend the automatic stay afforded to the Debtor, to ABC in an attempt to prevent the CDTFA from transmitting any further money from ABC's bank account, and to force the CDTFA to return the already remitted funds. Motion at 4. The Debtor argues that courts have the inherent power to issue stays at their discretion (citing *United States v. W.R. Grace*, 526 F.3d 499, 509 (9th Cir. 2008)).

The Debtor next argues that courts have carved out limited exceptions to the general rule that the stay should not be extended to a non-debtor. The Debtor relies on *United States v. Dos Cabezas Corp.*, where the Court determined that the stay could apply to a non-debtor if 1) "there is such identity between the debtor and the third-party defendant that the debtor may be said to be the real party defendant and that a judgment against the third-party defendant will in effect be a judgment or finding

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Los Angeles  
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**CONT... Ya-Chuan Victor Lee**

**Chapter 11**

against the debtor," or 2) where "extending the stay against codefendants contributes to the debtor's efforts of rehabilitation." 995 F.2d 1486, 1491 n.3 (9th Cir. 1993). The Debtor also relies on *Queenie, Ltd v. Nygard International*, where the court extended the stay to a business that the Debtor wholly owned. 321 F.3d 282, 287 (2nd Cir. 2003). The Debtor argues that, like in *Queenie*, because the Debtor wholly owns ABC and is a W-2 employee there, any adverse economic impact on ABC would have an adverse economic impact on the Debtor. The Debtor believes that should the CDTFA continue to enforce the levy against ABC, he will "have no reasonable method to formulate a [chapter 11] plan." Motion at 5. He argues that extending the stay to ABC will contribute to his "efforts of rehabilitation." *Id.* at 6.

Finally, the Debtor asserts that because he is the sole owner of ABC, the entirety of ABC and its property is actually a part of the bankruptcy estate that was created when the Debtor filed his individual petition. Thus, the CDTFA cannot reach ABC's funds without Court approval.

**Summary of the CDTFA's Opposition**

On October 7, 2020, the CDTFA submitted its Opposition to the Motion. The CDTFA says that the Debtor filed for individual bankruptcy and therefore ABC, a separate entity, should not benefit from the automatic stay. In addition, the CDTFA notes that while Debtor's ownership is a part of the bankruptcy estate, the assets are not. The CDTFA believes that the Debtor's reliance on *Queenie* is misplaced because the Court in *Queenie* noted that, while the automatic stay may apply to non-debtors "when a claim against the non-debtor will have an immediate adverse economic consequence for the debtor's estate," examples of those instances only include "protracted litigation on a claim to establish an obligation of which the debtor is a guarantor, a claim against the debtor's insurer, and/or a claim in which the debtor is the real party defendant." Opposition at 4 (citing *Queenie*, 321 F.3d at 287-88). Here, however, the CDTFA avers that this case merely deals with a "discrete tax law enforcement action." Opposition at 4.

Finally, because the automatic stay does not apply to ABC, the CDTFA reads the Debtor's Motion as a request for injunctive relief under 11 U.S.C. § 105. The CDTFA argues that the Debtor has not argued that he is likely to succeed on the merits, that the balance of equities tips in his favor, or that an injunction is in the public interest. Opposition at 5-6.

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**Summary of the Debtor's Reply**

On October 14, 2020, the Debtor filed his Reply. The Debtor again argues that the immediate adverse economic consequence that the levy has had on the Debtor is impeding his ability to seek an effective reorganization. The Debtor also asserts that the Opposition's argument about *Queenie* is incorrect; rather, the most important question that the *Queenie* court asked was whether the failure to extend the automatic stay to a debtor's business would have an "immediate adverse economic consequence" on the debtor's estate. The Debtor also relies on *In re Lockard* to make the distinction that because the Debtor is not a guarantor of the levy against ABC, the automatic stay could be appropriately applied to ABC. 884 F.2d 1171, 1179 n.15 (9th Cir. 1989) (finding that "the automatic stay does not preclude efforts to collect from a bankrupt's guarantors or from their property."). Finally, the Debtor clarifies that he is not seeking an injunction under 11 U.S.C. § 105(a) [Note 1].

**II. Findings of Fact and Conclusions of Law**

While the Court has broad powers under 11 U.S.C. § 105 to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title," the automatic stay normally only applies to the debtor. "In the absence of special circumstances, stays pursuant to section 362(a) are limited to debtors and do not include non-bankrupt co-defendants." *Ingersoll-Rand Fin. Corp. v. Miller Min. Co., Inc.*, 817 F.2d 1424, 1427 (9th Cir. 1987); *see also Mar. Elec. Co., Inc. v. United Jersey Bank*, 959 F.2d 1194, 1205 (3rd Cir. 1991) (finding that "the automatic stay is not available to non-bankrupt co-defendants of a debtor even if they are in a similar legal or factual nexus with the debtor."). However, the Ninth Circuit has acknowledged two special circumstances in which the stay could apply to non-debtors: 1) where "there is such identity between the debtor and the third-party defendant that the debtor may be said to be the real party defendant and that a judgment against the third-party defendant will in effect be a judgment or finding against the debtor" or 2) where "extending the stay against the codefendants contributes to the debtor's efforts of rehabilitation." *Dos Cabezas Corp.*, 995 F.2d at 1491 n.3. Here, the Debtor is the only debtor in the case. There are no third-party defendants and no co-debtors. Therefore, the Ninth Circuit's two exceptions to the rule are inapplicable.

The Debtor next cites *Queenie* for the proposition that the stay can extend to a

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Chapter 11

debtor's wholly owned corporation "when a claim against the non-debtor will have an immediate adverse economic consequence for the debtor's estate." 321 F.3d at 287. In *Queenie*, a corporation – Queenie – was involved in litigation and received a judgment against it at the trial court. Queenie appealed and then Queenie's sole shareholder – Gardner – filed for individual bankruptcy shortly thereafter. Gardner argued to the Second Circuit that the automatic stay should apply to Queenie because it was his wholly owned business. *Id.* at 287-288. The Court decided to impose the stay upon Queenie because Gardner was disputing the judgment against his corporation on appeal, and the claim against Queenie would have an "immediate adverse economic consequence" on Gardner's estate. In doing so, the court aimed to resolve one dispute at a time by preventing Gardner from having to both litigate an appeal for his corporation disputing the judgment and navigate a bankruptcy proceeding.

Here, however, the Debtor does not dispute the validity of the CDTFA's levy. In fact, it appears as though ABC's bank has already remitted \$37,668.13 to the CDTFA to pay off ABC's tax liability. While Gardner was appealing a judgment against his corporation, the Debtor here is not in the midst of any appeal against the CDTFA. Instead, he is asking for the extraordinary relief of a retroactive application of the stay and an order forcing the CDTFA to return funds that it already has in its possession. Contrary to what the Debtor argues in his Reply, his request for a retroactive stay and disgorgement of funds is much broader and more extreme than the debtor's request in *Queenie*. Even if this Court were to extend the stay to ABC, doing so retroactively rather than prospectively would perversely affect the rights of the CDTFA. Indeed, the Ninth Circuit is clear that a bankruptcy court's powers under § 105 are not a "roving commission to do equity." *In re Saxman*, 325 F.3d 1168, 1175 (9th Cir. 2008) (quoting *United States v. Sutton*, 786 F.2d 1305, 1308 (5th Cir. 1986).

While it may be true that the effect of a judgment against Queenie and a levy against the Debtor are the same (they both cause some harm to a debtor's estate), the Debtor has given the Court no specific reason as to how the levy affects his ability to create a plan, or any indication that he would have the ability to confirm a plan. Rather, the Debtor makes broad statements such as "[t]he ongoing business operations of ABC is [sic] integral to Debtor reorganizing his debts through any plan of reorganization." Motion at 2. The Debtor's case has been pending in this Court for one and a half years, and by the end of 2019, the Debtor had worked out a payment



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Chapter 11

plan with the CDTFA. It is therefore unclear how this levy has impeded the Debtor's ability to formulate a chapter 11 plan given the many months he has already had to do so. The Debtor has failed to show any "special circumstance" that warrants the retroactive imposition of a stay and an order directing the CDTFA to return funds because the Debtor is not in an ongoing appeal, and his business could have availed itself of the automatic stay by filing for bankruptcy.

Finally, the Debtor argues that because he holds a 100 percent ownership interest in ABC, his interest in ABC is a part of the bankruptcy estate. The Debtor is correct in that his *interest* in ABC is a part of the bankruptcy estate. It is well established, however, that when a debtor files for individual bankruptcy, "while the individual's interest in [a] partnership or corporation (which could be a 100 percent interest) would be property of the estate, the assets of the partnership or corporation itself would not be." 2 COLLIER ON BANKRUPTCY § 101.30[3] (16th ed. rev.); *see also Fowler v. Shadel*, 400 F.3d 1016, 1019 (7th Cir. 2005) (finding that the corporate assets of the debtor's wholly owned corporation were not a part of the bankruptcy estate); *In re Furlong*, 437 B.R. 712, 721 (Bankr. D. Mass. 2010) ("[u]nless a corporation itself is a bankruptcy debtor, the automatic stay afforded to an individual debtor under § 362(a) does not extend to the assets of a corporation in which the debtor has an interest, even if the interest is 100% of the corporate stock."). The CDTFA is not, however, asserting control over the Debtor's interest; it is asserting control over ABC's assets. Therefore, while the automatic stay applies to the Debtor's interest in ABC, it does not extend to the assets of the corporation.

### III. Conclusion

For the reasons set forth above, the Motion is DENIED.

The CDTFA is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a

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telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** Because the Debtor affirmatively states that he is not seeking an injunction, the Court will not discuss that argument.

<b>Party Information</b>
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**Debtor(s):**

Ya-Chuan Victor Lee

Represented By  
Marcus G Tiggs

**United States Bankruptcy Court  
Central District of California  
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**Monday, October 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-22393 Sharon R Williams**

**Chapter 7**

Adv#: 2:19-01050 Miller v. Hancox

**#1.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01050. Complaint by Elissa D. Miller against Donnell Hancox. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(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))) (Simons, Larry)

fr. 1-27-20; 3-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 10-7-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Sharon R Williams

Pro Se

**Defendant(s):**

Donnell Hancox

Pro Se

**Plaintiff(s):**

Elissa D. Miller

Represented By  
Larry D Simons

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, October 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-22399 Dorothy Victoria Long**

**Chapter 7**

Adv#: 2:19-01086 United States Trustee for the Central District of v. Long

**#2.00 VIDEOCONFERENCE THROUGH ZOOM FOR GOVERNMENT**

Trial

RE: [1] Adversary case 2:19-ap-01086. Complaint by United States Trustee (LA) against Dorothy Victoria Long. (Fee Not Required). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference) Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Morrison, Kelly)

fr. 6-11-19; 2-24-2020; 3-23-2020

FR. 6-23-20; 7-28-20

Docket 1

**Tentative Ruling:**

10/22/2020

Trial matter. Hearing required.

**Party Information**

**Debtor(s):**

Dorothy Victoria Long Pro Se

**Defendant(s):**

Dorothy Victoria Long Pro Se

**Plaintiff(s):**

United States Trustee for the Central Represented By  
Kelly L Morrison

**Trustee(s):**

Brad D Krasnoff (TR) Pro Se

**United States Bankruptcy Court  
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**Monday, October 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#3.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01503. Complaint by Ann Tardaguila against Gregory Tardaguila. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Mitnick, Eric)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-25-2021 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
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**Monday, October 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01505 Strategic Funding Source, Inc. v. Tardaguila

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01505. Complaint by Strategic Funding Source, Inc. against Gregory Tardaguila. 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)) (Harvey, Brian)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-25-21 AT 9:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Pro Se

**Plaintiff(s):**

Strategic Funding Source, Inc.

Represented By  
Brian T Harvey

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, October 26, 2020**

**Hearing Room 1568**

9:00 AM

**2:13-20738 Sergio Miranda**

**Chapter 11**

Adv#: 2:19-01079      Miranda et al v. BANK OF AMERICA NATIONAL ASSOCIATION et al

**#5.00**      Hearing re [74] Evidentiary hearing

Docket      0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-11-2021 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Sergio Miranda

Represented By  
David A Akintimoye

**Defendant(s):**

Shellpoint Mortgage Servicing LLC

Pro Se

DOES 1-10, Inclusive

Pro Se

Shellpoint Mortgage Servicing, LLC

Represented By  
Erin M McCartney

Shellpoint Mortgage Servicing, LLC

Represented By  
Erin M McCartney

BANK OF AMERICA NATIONAL

Represented By  
Adam N Barasch  
Donald H Cram III

**Joint Debtor(s):**

Esmeralda Miranda

Represented By  
David A Akintimoye

**Plaintiff(s):**

Esmeralda Miranda

Represented By  
David A Akintimoye

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, October 26, 2020**

**Hearing Room 1568**

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9:00 AM

**CONT...**      **Sergio Miranda**  
Sergio Lopez Miranda

Represented By  
David A Akintimoye

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Monday, October 26, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16836 Jonathan Joshua Orbon**

**Chapter 7**

**#100.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 BMW 7 Series 750i Sedan 4D . (Johnson, Marjorie)

Docket 11

**Tentative Ruling:**

10/22/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

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10:00 AM

**CONT... Jonathan Joshua Orbon**

**Chapter 7**

to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Jonathan Joshua Orbon

Represented By  
Raymond J Bulaon

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Monday, October 26, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-17781 Erika Flores**

**Chapter 7**

**#101.00** HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Dodge Durango, VIN: 1C4RDHAG5JC385299 . (Ith, Sheryl)

Docket 9

**Tentative Ruling:**

10/22/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

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10:00 AM

**CONT... Erika Flores**

**Chapter 7**

to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Erika Flores

Represented By  
Michael H Colmenares

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, October 27, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-13059 Norberto Pimentel**

**Chapter 7**

Adv#: 2:19-01146 Wesley H Avery, Chapter 7 Trustee v. Pimentel et al

**#1.00** Trial Date Set

RE: [1] Adversary case 2:19-ap-01146. Complaint by WESLEY Howard AVERY against Norberto Pimentel, Erica Pimentel. (Charge To Estate). Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Stevens, Adam)

fr. 3-12-20; 3-24-2020; 6-24-20; 7-29-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-25-2021 AT 9:00 A.M.**

**Party Information**

**Debtor(s):**

Norberto Pimentel

Represented By  
Marcus Gomez

**Defendant(s):**

Norberto Pimentel

Pro Se

Erica Pimentel

Pro Se

**Joint Debtor(s):**

Erica Pimentel

Represented By  
Marcus Gomez

**Plaintiff(s):**

Wesley H Avery, Chapter 7 Trustee

Represented By  
Georgeann H Nicol  
Adam Stevens

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Adam Stevens

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 28, 2020**

**Hearing Room 1568**

10:00 AM

**2:10-62208 EPD Investment Co., LLC**

**Chapter 7**

Adv#: 2:12-02424 Rund, Chapter 7 Trustee v. Kirkland, individually et al

**#1.00** Hearing  
RE: [417] Motion For Summary Judgment Regarding The Trustees: (1) First Claim For Relief For Disallowance Of Claims And Proofs Of Claims; (2) Alternate First Claim For Relief For Equitable Subordination Of Claims And Proofs Of Claims; And (3) Second, Third, Fourth, Fifth And Sixth Claims For Avoidance And Recovery Of Fraudulent Transfers; Or (B) In The Alternative, An Order Adjudicating That Certain Facts Exist Without Substantial Controversy; And Memorandum Of Points And Authorities In Support Thereof (Weber, Corey)

fr: 10-14-20

Docket 417

**Tentative Ruling:**

10/27/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Cross Motions for Summary Judgment filed by the Chapter 7 Trustee and the BC Trust are **GRANTED IN PART** and **DENIED IN PART**. The Court finds that the facts established by the jury trial, and/or the facts as to which there is no genuine dispute, support entry of the following findings:

- 1) The BC Trust holds an allowed secured claim in the amount of \$1,950,613.41.
- 2) The BC Trust is not entitled to any interest on its claim because the Trustee is entitled to avoid the claim as an actually fraudulent transfer pursuant to § 548(a)(1)(A). Notwithstanding such avoidance, the BC Trust is entitled to a claim of \$1,950,613.41 because it has established that it acquired the claim in good faith and for value pursuant to § 548(c).

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10:00 AM

**CONT...**

**EPD Investment Co., LLC**

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- 3) The BC Trust's claim **does not** attach to (a) \$3,886,650.83 in proceeds from the Trustee's settlement of avoidance actions or (b) \$1,250,000.00 in proceeds from the Trustee's settlements with Luce Forward and Greenberg Traurig. The BC Trust's claim **does** attach to (a) \$3,615,817.85 in proceeds from a settlement with Robert Geringer and (b) \$104,588.83 in proceeds from the sale of stock in Ice Skating Enterprises and Sidecreek Development.
- 4) The BC Trust is entitled to summary adjudication in its favor on the Trustee's constructively fraudulent transfer claims.
- 5) Neither party is entitled to summary adjudication with respect to the Trustee's equitable subordination claim.

**Pleadings Filed and Reviewed:**

- 1) Chapter 7 Trustee's Motion for Summary Judgment:
  - a) Chapter 7 Trustee's Notice of Motion and Motion for: (A) Summary Judgment Regarding the Trustee's: (1) First Claim for Relief for Disallowance of Claims and Proofs of Claims; (2) Alternate First Claim for Relief for Equitable Subordination of Claims and Proofs of Claims; and (3) Second, Third, Fourth, Fifth and Sixth Claims for Avoidance and Recovery of Fraudulent Transfers; or (B) In the Alternative, an Order Adjudicating that Certain Facts Exist Without Substantial Controversy [Adv. Doc. No. 417] (the "Trustee's MSJ")
    - i) Declaration of Jason M. Rund in Support of [Trustee's MSJ] [Adv. Doc. No. 418]
    - ii) Declaration of Corey R. Weber in Support of [Trustee's MSJ] [Adv. Doc. No. 419]
    - iii) Request for Judicial Notice in Support of [Trustee's MSJ] [Adv. Doc. No. 420]
    - iv) Trustee's Notice of Filing of Discovery Documents Re [Trustee's MSJ] [Adv. Doc. No. 421]
    - v) Separate Statement [of Undisputed Material Facts] in Support of [Trustee's MSJ] [Adv. Doc. No. 422]
    - vi) Notice of Lodgment of Proposed Order Granting [Trustee's MSJ] [Adv. Doc. No. 423]
  - b) Defendant Bright Conscience Trust's Opposition to Plaintiff's Motion for Summary Judgment [Adv. Doc. No. 432]
    - i) Bright Conscience Trust's Statement of Genuine Disputes of Materials

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- Facts and Statement of Additional Undisputed Facts in Opposition to Jason M. Rund's Motion for Summary Judgment [Adv. Doc. No. 432-1]
- ii) Poshow Ann Kirkland's, as Trustee of the Bright Conscience Trust Dated September 9, 2009, Appendix of Evidence in Support of Opposition to Plaintiff's Motion for Summary Judgment [Adv. Doc. No. 432-2]
  - iii) Poshow Ann Kirkland's, as Trustee of the Bright Conscience Trust Dated September 9, 2009, Request for Judicial Notice in Support of Opposition to Plaintiff's Motion for Summary Judgment [Adv. Doc. No. 433]
  - iv) Declaration of Poshow Ann Kirkland in Support of Opposition to Plaintiff's Motion for Summary Judgment [Adv. Doc. No. 434]
  - v) Declaration of John C. Kirkland in Support of Defendant's Opposition to Plaintiff's Motion for Summary Judgment [Adv. Doc. No. 435]
  - vi) Declaration of Stephen E. Hyam in Support of Defendant's Opposition to Plaintiff's Motion for Summary Judgment [Adv. Doc. No. 436]
  - vii) Declaration of Lisa Underkoffler in Support of Opposition to Plaintiff's Motion for Summary Judgment [Adv. Doc. No. 437]
  - viii) Proof of Service Re Poshow Ann Kirkland's, as Trustee of the Bright Conscience Trust Dated September 9, 2009, Opposition to Plaintiff's Motion for Summary Judgment and Supporting Documents [Adv. Doc. No. 438]
- c) Reply Brief in Support of [Trustee's MSJ] [Adv. Doc. No. 448]
- 2) Bright Conscience Trust's Motion for Summary Judgment:
- a) Defendant Poshow Ann Kirkland, Trustee of the Bright Conscience Trust Dated September 9, 2009's Notice of Motion and Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment [Adv. Doc. No. 424] (the "BC Trust MSJ")
    - i) Declaration of Poshow Ann Kirkland in Support of Motion for Summary Judgment [Adv. Doc. No. 424-2]
    - ii) Declaration of John C. Kirkland in Support of [BC Trust MSJ] [Adv. Doc. No. 424-3]
    - iii) Declaration of Stephen E. Hyam in Support of [BC Trust MSJ] [Adv. Doc. No. 424-4]
    - iv) Defendant Poshow Ann Kirkland, Trustee of the Bright Conscience Trust Dated September 9, 2009's Statement of Uncontroverted Facts and Conclusions of Law in Support of Motion for Summary Judgment [Adv. Doc. No. 424-5]



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- v) Poshow Ann Kirkland's, as Trustee of the Bright Conscience Trust Dated September 9, 2009, Request for Judicial Notice in Support of Motion for Summary Judgment [Adv. Doc. No. 424-6]
- vi) Poshow Ann Kirkland's, as Trustee of the Bright Conscience Trust Dated September 9, 2009, Appendix of Evidence in Support of Motion for Summary Judgment [Adv. Doc. No. 424-7]
- vii) Proof of Service Re [BC Trust MSJ] [Adv. Doc. No. 424-8]
- viii) Poshow Ann Kirkland's, as Trustee of the Bright Conscience Trust Dated September 9, 2009, Request for Judicial Notice in Support of Motion for Summary Judgment—Supplemental/Amended [Adv. Doc. No. 429]
- ix) Poshow Ann Kirkland's, as Trustee of the Bright Conscience Trust Dated September 9, 2009, Amended Statement of Uncontroverted Facts and Conclusions of Law in Support of Motion for Summary Judgment [Adv. Doc. No. 430]
- x) Poshow Ann Kirkland's, as Trustee of the Bright Conscience Trust Dated September 9, 2009, Supplemental Appendix of Evidence in Support of Motion for Summary Judgment [Adv. Doc. No. 431]
- b) Chapter 7 Trustee's Opposition to [BC Trust MSJ] [Adv. Doc. No. 439]
  - i) Declaration of Jason M. Rund in Support of Chapter 7 Trustee's Opposition to [BC Trust MSJ] [Adv. Doc. No. 440]
  - ii) Declaration of Corey R. Weber in Support of Chapter 7 Trustee's Opposition to [BC Trust MSJ] [Doc. No. 441]
  - iii) Request for Judicial Notice in Support of Chapter 7 Trustee's Opposition to [BC Trust MSJ] [Adv. Doc. No. 442]
  - iv) Evidentiary Objections in Support of Chapter 7 Trustee's Opposition to [BC Trust MSJ] [Adv. Doc. No. 443]
  - v) Trustee's Notice of Filing of Discovery Documents in Support of Chapter 7 Trustee's Opposition to [BC Trust MSJ] [Adv. Doc. No. 444]
  - vi) Chapter 7 Trustee's Separate Statement of Disputed Material Facts in Opposition to [BC Trust MSJ] [Adv. Doc. No. 445]
- c) Defendant Bright Conscience Trust's Reply to Plaintiff's Opposition to Defendant's Motion for Summary Judgment [Adv. Doc. No. 447]
  - i) Poshow Ann Kirkland's, as Trustee of the Bright Conscience Trust Dated September 9, 2009, Reply Request for Judicial Notice in Support of Motion for Summary Judgment [Adv. Doc. No. 447-1]
  - ii) Defendant Bright Conscience Trust's Response to Objection to Evidence

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- in Support of Reply to Plaintiff's Opposition to the Motion for Summary Judgment [Adv. Doc. No. 447-2]
- iii) Defendant Poshow Ann Kirkland, Trustee of the Bright Conscience Trust Dated September 9, 2009's Objection to Plaintiff's Evidence—Deposition Testimony of Lisa Underkoffler [Adv. Doc. No. 447-3]
- iv) Proof of Service Re Defendant Bright Conscience Trust's Reply to Plaintiff's Opposition to Motion for Summary Judgment and Supporting Documents [Adv. Doc. No. 447-4]

### **I. Procedural Background**

On December 7, 2010, creditors filed an involuntary petition against EPD Investment Co., LLC ("EPD"). Bankr. Doc. No. 1. [**Note 1**] The Court entered an Order for Relief on February 9, 2011. Bankr. Doc. No. 29. On February 1, 2012, Jerrold S. Pressman ("Pressman") filed a voluntary Chapter 7 petition. On June 4, 2012, the bankruptcy cases of EPD and Pressman (collectively, the "Debtors") were substantively consolidated. Bankr. Doc. No. 227.

On October 31, 2012, the Trustee filed the complaint commencing this adversary proceeding. Adv. Doc. No. 1. The Trustee filed the operative Fourth Amended Complaint [Adv. Doc. No. 234] (the "Complaint") on October 14, 2016. [**Note 2**] The Complaint seeks to (1) disallow and/or equitably subordinate proofs of claim filed by the Bright Conscience Trust Dated September 9, 2009 (the "BC Trust") and (2) avoid allegedly fraudulent transfers from the Debtors to John Kirkland ("Kirkland") and the BC Trust.

On December 17, 2018, the District Court withdrew the reference of this adversary proceeding from the Bankruptcy Court. *Rund v. Kirkland (In re EPD Investment Co., LLC)*, 594 B.R. 423 (C.D. Cal. 2018). Withdrawal of the reference was based on Kirkland's right to a jury trial conducted by the District Court. *Id.* at 426. Observing the "common issues of fact and the overlapping nature of the claims against the BC Trust and John Kirkland," the District Court found that "judicial economy and the uniformity of bankruptcy administration ... would be best served by withdrawing the entire action." *Id.*

On June 4, 2019, the District Court granted the Trustee's motion to bifurcate the trial of the (1) disallowance, equitable subordination, and fraudulent transfer claims against the BC Trust and (2) the fraudulent transfer claims against Kirkland. District Court Doc. No. 117. A six-day jury trial of the Trustee's claims against Kirkland was conducted between June 25, 2019 and July 3, 2019. District Court Doc. Nos. 180–86.

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Specifically, the Trustee sought to avoid, as actually and constructively fraudulent, \$104,852.82 in payments made by the Debtors towards the mortgage on Kirkland's home (the "Mortgage Transfers").

The jury returned a verdict in favor of Kirkland. In reaching its verdict, the jury found that EPD was a Ponzi scheme, *see* Verdict Form re Ponzi Scheme [District Court Doc. No. 174]; that Kirkland was not an insider of EPD and/or Pressman, *see* Verdict Form re Insider [District Court Doc. No. 174]; that EPD and/or Pressman transferred property to Kirkland to hinder, delay, and defraud one or more of their creditors, *see* Verdict Form No. 1 (Actual Fraud—California Law) at Question 3 and Verdict Form No. 2 (Actual Fraud—Bankruptcy Code) at Question 3 [District Court Doc. No. 174]; and that Kirkland received the Mortgage Transfers in good faith and for reasonably equivalent value, *see* Verdict Form No. 1 (Actual Fraud—California Law) at Questions 4–5; Verdict Form No. 2 (Actual Fraud—Bankruptcy Code) at Questions 4–5; Verdict Form No. 3 (Constructive Fraud—California Law) at Question 3; and Verdict Form No. 5 (Constructive Fraud—Bankruptcy Code) at Question 3 [District Court Doc. No. 174].

On October 3, 2019, the District Court remanded the Trustee's claims against the BC Trust to the Bankruptcy Court, and dismissed Count 1 of the Complaint (for disallowance and/or equitable subordination of the BC Trust's proofs of claim) as to Kirkland. District Court Doc. No. 189 (the "Remand Order"). The District Court stated that it saw no reason why the Bankruptcy Court could not rely upon the testimony provided during the jury trial in adjudicating the claims against the BC Trust. *Id.* The District Court has not yet entered judgment in connection with the jury's verdict in favor of Kirkland.

On July 22, 2020, the Court ordered the Trustee and the BC Trust to file cross-motions for summary judgment (the "MSJ's"). Adv. Doc. No. 409. The Court set a Pretrial Conference for December 15, 2020 at 11:00 a.m. in the event the MSJ's do not dispose of the action. *Id.*

At the time it ordered the parties to file the MSJ's, the Court noted that the Trustee and the BC Trust had submitted briefing to the Court and to the District Court regarding the extent to which the jury's findings as to Kirkland remain binding with respect to the Trustee's claims against the BC Trust. The Court ruled that the following legal framework would apply to the determination of which jury findings remained binding:

The Court finds that all explicit and implicit findings made by the jury

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remain binding with respect to the Trustee's claims against the BC Trust. The Seventh Amendment provides that "no fact tried by a jury, shall be otherwise re-examined in any Court of the United States." The Ninth Circuit has held:

The Supreme Court has explained how to comport with the Seventh Amendment when trying legal and equitable claims in the same action. In *Dairy Queen, Inc. v. Wood*, 369 U.S. 469, 82 S.Ct. 894, 8 L.Ed.2d 44 (1962), the Court held that in cases in which legal and equitable claims turn on common issues of fact, "any legal issues for which a trial by jury is timely and properly demanded [must] be submitted to a jury," *id.* at 473, 82 S.Ct. 894 (citing *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 510–11, 79 S.Ct. 948, 3 L.Ed.2d 988 (1959)), and the jury's determination of the legal claims must occur "prior to any final court determination of [the] equitable claims," *id.* at 479, 82 S.Ct. 894. Because the Seventh Amendment's second clause "prohibit[s] ... the courts of the United States to re-examine any facts tried by a jury" except as permitted under the narrow "modes known to the common law," *Parsons*, 28 U.S. at 447–48, the court then must abide by the jury's findings of fact in making any subsequent rulings. See *Floyd v. Laws*, 929 F.2d 1390, 1397 (9th Cir. 1991) (holding that "it would be a violation of the seventh amendment right to jury trial for the court to disregard a jury's finding of fact").

It follows that "in a case where legal claims are tried by a jury and equitable claims are tried by a judge, and [those] claims are 'based on the same facts,'" the trial judge must "follow the jury's implicit or explicit factual determinations" "in deciding the equitable claims." *L.A. Police Protective League v. Gates*, 995 F.2d 1469, 1473 (9th Cir. 1993) (quoting *Miller v. Fairchild Indus.*, 885 F.2d 498, 507 (9th Cir. 1989)). The trial court must do so in determining both liability and relief on the equitable claims.... These constraints are "consistent with ... the respect that properly is accorded to a jury verdict in our system of jurisprudence." *Miller*, 885 F.2d at 507.

*Teutscher v. Woodson*, 835 F.3d 936, 944 (9th Cir. 2016).

Rather than being limited to the face of the verdict, the jury's findings include "any factual findings that the [v]erdict's contents necessarily imply."

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*United States v. J-M Mfg. Co., Inc.*, No. EDCV 06-55-GW(PJWX), 2018 WL 705532, at \*5 (C.D. Cal. Jan. 31, 2018). To determine whether a finding is implicit in a verdict, courts review "the verdict, the instructions, and the trial record to interpret the scope of the jury's factual findings." *Id.* For example, in *Los Angeles Police Protective League v. Gates*, 995 F.2d 1469, 1473–74 (9th Cir. 1993), a jury found that a police officer had been wrongfully terminated for refusing to consent to an unlawful search and awarded damages. The trial court denied the officer's request for reinstatement, finding that the officer would have been terminated for other misconduct even if he had consented to the search. The Ninth Circuit acknowledged that "the jury made no express finding on whether [the officer] would have been fired in any event," but found it appropriate to "determine whether it can be inferred from the jury's verdict that it found that the improper insubordination charge was the cause of [the officer's] dismissal." *Id.* at 1473. After examining the relevant jury instructions, the *Gates* court found that in "light of the causation instruction and the manner in which the case was presented to the jury, it could *not* have awarded the level of damages it awarded without finding that Gibson would not have been discharged except for his refusal to be illegally searched." *Id.* at 1474.

The Court does not agree with the Trustee's contention that only jury findings that were "critical and necessary" to the verdict remain binding with respect to the claims against the BC Trust. The Trustee's framework does not sufficiently account for the intertwined nature of the Trustee's claims against Kirkland and the BC Trust. Among other things, the Trustee alleges that the BC Trust's claims should be equitably subordinated because the BC Trust stands in the shoes of Kirkland as his assignee, and therefore Kirkland's alleged inequitable conduct should be imputed to the BC Trust. Because the Trustee's claims against the BC Trust expressly depend upon his allegations against Kirkland, the Trustee cannot pick and choose which findings made by the jury as to Kirkland remain binding with respect to his claims against the BC Trust. The Trustee's theory of the case means that the all explicit and implicit findings of the jury as to Kirkland are binding with respect to the Trustee's claims against the BC Trust. To hold otherwise would violate *Teutscher's* directive that "in a case where legal claims are tried by a jury and equitable claims are tried by a judge, and [those] claims are 'based on the same facts,'" the trial judge must 'follow the jury's implicit or explicit factual

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determinations' 'in deciding the equitable claims.'" *Teutscher*, 835 F.3d at 944.

Final Ruling Denying BC Trust's Motion to Dismiss for Failure to Prosecute [Adv. Doc. No. 409] at 27–29.

## **II. Effect of the Litigation on the Administration of the Estate**

An understanding of the effect of this litigation upon the administration of the estate provides necessary context for the arguments raised by the parties. The BC Trust asserts a secured claim in the total amount of \$7,009,181.20, consisting of principal in the amount of \$2,055,466.23 and interest in the amount of \$4,953,714.97 (with interest calculated at the rate of 10% per annum). [Note 3] The BC Trust maintains that its claim attaches to all assets of the estate.

The assets of the estate consist of four general categories of proceeds that have been collected by the Trustee:

- 1) Settlements of the Trustee's avoidance claims, in the amount of \$3,886,650.83.
- 2) Settlements with two of Kirkland's prior law firms, based on claims related to Kirkland's actions, in the amount of \$1,250,000.00.
- 3) A settlement with Robert Geringer, whereby Geringer paid the estate \$3,615,817.85, representing the amount that Geringer paid Pressman for stock in North Hills Industrial Park, Inc.
- 4) Proceeds from the sale of stock in Ice Skating Enterprises, Inc. ("Ice Skating Enterprises"), in the net amount of \$54,558.83, and proceeds in the amount of \$50,000 in connection with Mr. Pressman's stock ownership in Sidecreek Development, Inc. ("Sidecreek Development").

The Trustee disputes the BC Trust's position that its asserted security interest extends to all assets of the estate. The Trustee's position is that if the Court finds that the BC Trust holds a secured claim, such claim can attach only to the \$104,558.83 in proceeds from the Ice Skating Enterprises and Sidecreek Development stock.

As of August 24, 2020, the estate had cash on hand of \$2,617,309.46 and total receipts of \$8,896,503.98. Rund Decl. at ¶¶ 5–6 [Adv. Doc. No. 440]. The Court has authorized the payment of approximately \$6.2 million in fees to professionals employed by the estate, on an interim basis. Aside from an interim payment to the

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Trustee's general counsel of approximately \$100,000 authorized on August 11, 2020, the last payment to the estate's professionals was authorized in November 2017. The November 2017 payment reimbursed professionals for services performed prior to June 30, 2015.

**III. Facts Established By the Jury Trial And Facts As To Which There is No Genuine Dispute**

As noted above, upon remand of the claims against the BC Trust to the Bankruptcy Court, the District Court stated that in adjudicating such claims, the Bankruptcy Court could rely upon the testimony provided during the jury trial. District Court Doc. No. 189. The facts set forth below have either been established through the jury trial, or are facts as to which there is no genuine dispute. [Note 4]

**A. Kirkland's Loan To Or For the Benefit of EPD**

In September 2007, Kirkland and Jerrold Pressman [Note 5] reached an agreement under which Kirkland would loan funds to EPD. Tr. 371:10–372:14 (testimony of Kirkland). The agreement was initially memorialized in a letter written by Kirkland with the heading "Re: Loans" dated September 28, 2007 (the "Letter"). Tr. 372:15–24 (testimony of Kirkland). The Letter was signed by Kirkland and Pressman, and provides in relevant part:

Enclosed please find two checks totaling \$600,000.00, reflecting my initial investment in EPD Investment Co., LLC, with an additional \$150,000.00 to follow shortly.

As agreed, Keith will prepare standard form, multiple advance, secured loan documents, including without limitation a Secured Promissory Note, Continuing Guaranty, Security Interest Agreement, conflict waivers, etc. in due course.

Adv. Doc. No. 424-7, Ex. 15.

On November 8, 2007, Kirkland and EPD executed the Secured Promissory Note (the "Note"), Continuing Guaranty (the "Guaranty"), and Security Interest Agreement (the "Security Agreement," and together with the Note and Guaranty, the "Loan Documents") contemplated by the Letter. Pursuant to the Loan Documents, Kirkland agreed to loan funds to or for the benefit of EPD. The Guaranty provides that EPD would be liable for all funds loaned by Kirkland, regardless of whether the funds were

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loaned directly to EPD or to persons or entities affiliated with EPD:

Each of the Guarantors has advised, represented, warranted and guaranteed to Lender that he will receive a bottom line, cumulative net return on investment of at least 12% per annum (24% on default) from Debtor for any and all payments made by or on behalf of Lender, from time to time prior to, on and after the date of this Continuing Guaranty, whether to Debtor, on Debtor's behalf, for Debtor's benefit, or at either Guarantor's direction or recommendation, including without limitation all loans directly to Debtor pursuant to the Note or Loan Documents, all additional funds loaned to Debtor from time to time, all payments to the Debtor for consulting fees, advisory fees, and professional service fees, all payments to BEM for consulting fees, advisory fees, and professional service fees, and all payments to Keith Pressman for consulting fees, advisory fees, professional service fees, and legal fees, and all payments to any other sister company of EPD (any and all such loans and payments, collectively, the "Payments").

All Payments made will be automatically added to the Principal under the Note, and each Guarantor's joint and several obligations to ensure full recovery of an amount equal to the Payments, plus interest thereon pursuant to and in accordance with the Note, will be included within the Obligations. All parties acknowledge and agree that, as of the date hereof, the principal amount of the Payments is \$750,000.00.

Guaranty at ¶¶ E-G [Adv. Doc. No. 424-7, Ex. 5].

The Guaranty further provides that EPD will benefit from Payments to EPD-affiliated persons or entities as a result of the relationships among the parties:

Each of the Guarantors [EPD is defined as a "Guarantor"] will derive financial benefit from the Payments and the other Loan Documents. Pressman is Chairman of EPD and holds a membership interest in EPD, as does Pressman's son, attorney Keith Pressman. EPD owes substantial sums to Pressman. In addition, Pressman has an outstanding note to EPD, and has granted a lien to EPD. Broadway Entertainment Marketing ("BEM") owes substantial debts to EPD. BEM and Keith Pressman pay substantial fees to Debtor's sister companies.



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Guaranty at ¶ D.

The Guaranty's provision that EPD is liable for Payments made directly to EPD or to an affiliate for EPD's benefit is also set forth in the Note:

EPD Investment Co., LLC (the "Company"), hereby promises to pay to the order of John C. Kirkland or his designees or assigns ... the amount set out above as the Original Principal Amount (as increased by the amount of any and all future loans or payments to Company or any of its affiliates ...).

Note [Adv. Doc. No. 474-7, Ex. 4].

The Security Agreement provides that Payments made pursuant to the Note are secured by "a continuing security interest in the Collateral," and defines "Collateral" as:

all right, title and interest of Debtor [EPD] in and to all of the following, whether now owned or hereafter arising or acquired and wherever located: All assets of the Debtor, including, but not limited to: all personal and fixture property of every kind and nature, including without limitation all goods (including inventory, equipment and any accessions thereto), instruments (including promissory notes), documents, accounts (including accounts receivable), chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, Securities and all other investment property, supporting obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds, and all general intangibles (including all payment intangibles); all Equipment, all Intellectual Property; and any and all claims, rights and interests in any of the above, and all guaranties and security for any of the above, and all substitutions and replacements for, additions, accessions, attachments, accessories, and improvements to, and proceeds (including proceeds of any insurance policies, proceeds of proceeds and claims against third parties) of, any and all of the above, and all Debtor's books relating to any and all of the above.

Security Agreement at ¶ 1(b) [Adv. Doc. No. 424-7, Ex. 3].

The Security Agreement states that its provisions may be modified only by a writing signed by the party against whom the modification is sought:

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Neither this Security Agreement nor any provision hereof may be changed, waived, discharged or terminated orally but only by a statement in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

*Id.* at ¶ 14(a).

On November 7, 2007, Kirkland, on the one hand, and EPD and Pressman, on the other hand, executed a *Conflict Waiver and Consent* [Adv. Doc. No. 419, Ex. 5] (the "Conflict Waiver"). The Conflict Waiver states that EPD and Pressman are not clients of Kirkland, but that Kirkland "has represented various persons and entities affiliated or associated with EPD and Pressman." It further provides that EPD waives any actual or potential conflicts arising in connection with the Loan Documents:

EPD and Pressman understand that, if Kirkland invests or loans money to EPD or Pressman, or obtains a security interest in the property or assets of EPD or Pressman, Kirkland's interests as an investor or lender may be adverse to the interests of EPD and Pressman, and their property, in that Kirkland's interest will be to ensure repayment of his debt, and preservation of the assets for his benefit, not to protect the interests of EPD or Pressman.

EPD and Pressman understand that, if the loans are not repaid when required, Kirkland's interests will become directly adverse to the interests of EPD and Pressman, and their property....

EPD and Pressman each waive all actual and potential conflicts of interest arising out of or relating to the proposed transaction.

Conflict Waiver at ¶¶ 5–6 and 9.

**B. Payments Made by Kirkland Pursuant to the Loan Documents**

Kirkland first made Payments to or for the benefit of EPD on September 27, 2007, [Note 6] prior to the execution of the Loan Documents, because he trusted Pressman. *See* Tr. 375:9–14 (testimony of Kirkland) ("I learned a long time ago that the legal documents can never protect you if the guy wants to—well, stiff you. And if the guy is honest, it doesn't make any difference if you have a piece of paper or not. So I wasn't overly concerned about it."). The initial Payments consisted of a check for \$200,000 payable to Keith Pressman and a check for \$400,000 payable to BEM. Adv. Doc. No.

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424-7, Ex. 17 (check negotiated on September 27, 2007 payable to BEM); Tr. 474:4–22 (Kirkland’s testimony that the \$400,000 check was payable to BEM); Kirkland Decl. [Adv. Doc. No. 435] at ¶ 3 (Kirkland’s testimony that the \$200,000 check was payable to Keith Pressman). On November 8, 2007, contemporaneously with the execution of the Loan Documents, Kirkland made a further Payment of \$150,000 by wire transfer (the record does not reflect whether the \$150,000 Payment was made to EPD or to an EPD-affiliated entity for EPD’s benefit). **[Note 7]**

On March 26, 2008, Kirkland made a Payment of \$150,000 by way of a check payable to BEM. Tr. 472:16–20, 474:4–5 (testimony of Kirkland); Adv. Doc. No. 424-7, Ex. 16 (check negotiated on March 26, 2008 payable to BEM); Doc. No. 424-7, Ex. 22 (Kirkland’s March 2008 bank statement, reflecting payment of the \$150,000 check).

On June 20, 2008, Kirkland made a Payment of \$100,000. Doc. No. 424-7, Ex. 27 (Kirkland’s bank statement showing \$100,000 check to an unspecified party); Doc. No. 424-3 at ¶ 11 (Kirkland’s declaration testimony authenticating bank statement). The record does not reflect whether the June 2008 Payment was made to EPD or to an EPD-affiliated entity for EPD’s benefit.

In August 2008, EPD arranged for the refinancing of Kirkland’s home. On August 18, 2008, Kirkland caused the net proceeds of the refinancing—\$855,466.23—to be wired directly to EPD as an additional Payment pursuant to the Loan Documents. Tr. 376:7–16 (testimony of Kirkland). EPD then began making the monthly mortgage payments on the refinanced loan. Tr. 377:16–18 (testimony of Kirkland). Each mortgage payment was approximately \$7,400. Mortgage payments commenced on October 5, 2008 and continued through December 14, 2009. The total amount of mortgage payments made by EPD was \$104,852.82 (the "Mortgage Transfers").

On April 14, 2009, Kirkland made a Payment of \$100,000 by way of a check payable to Keith Pressman. Adv. Doc. No. 424-7, Ex. 23 (Kirkland’s bank statement showing payment of \$100,000 check); *id.*, Ex. 39 at 60:1–22 (deposition testimony of Ruben Moreno that Kirkland issued a check payable to Keith Pressman).

On July 24, 2009, Pressman told Kirkland that EPD was experiencing temporary cash flow issues. As of that date, EPD had made approximately \$75,000 in Mortgage Transfers. Kirkland agreed to lend EPD an additional \$100,000 pursuant to the Loan Documents. The agreement was memorialized in a *Funding Agreement*, dated July 24, 2009 [Adv. Doc. No. 424-7, Ex. 13] (the "Funding Agreement") entered into by EPD and Pressman, on the one hand, and Kirkland, on the other hand. The Funding Agreement contains a provision stating that EPD releases Kirkland from any and all

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claims held by EPD against Kirkland. Funding Agreement at ¶ 4. It also states that any claims against Kirkland arising under the Loan Documents must be commenced within one year of the date of execution of the Funding Agreement. *Id.* at ¶ 6. On July 24, 2009, pursuant to the Loan Documents and Funding Agreement, Kirkland made a Payment of \$100,000 by way of a check payable to EPD. Tr. 378:17–380:8 (testimony of Kirkland); Adv. Doc. No. 424-7, Ex. 25 (check payable to EPD).

The following chart summarizes the Payments described above made by Kirkland pursuant to the Loan Documents:

Date	Payment	Payment Recipient
9/27/2007	\$200,000.00	Keith Pressman
9/27/2007	\$400,000.00	BEM
11/08/2007	\$150,000.00	Record does not reflect identity of payment recipient
3/26/2008	\$150,000.00	BEM
6/20/2008	\$100,000.00	Record does not reflect identity of payment recipient
8/18/2008	\$855,466.23	EPD
4/14/2009	\$100,000.00	Keith Pressman
7/24/2009	\$100,000.00	EPD
<b>TOTAL</b>	<b>\$2,055,466.23</b>	

**C. Formation of the BC Trust and Kirkland's Transfer of His Interest in the Loan Documents to the BC Trust**

On September 9, 2009, Kirkland and Poshow Ann Kirkland ("Poshow"), [Note 8] Kirkland's spouse, created the Bright Conscience Trust Dated September 9, 2009 (the "BC Trust"). Tr. 396:20–398:24 (testimony of Kirkland). The BC Trust is an irrevocable trust, and its beneficiaries are Kirkland and Poshow's minor children. *Id.* Poshow is the sole Trustee of the BC Trust. Tr. 399:18–400:10 and 401:21–402:21 (testimony of Kirkland); *id.* at 666:3–14 (testimony of Pressman). On September 9, 2009, Kirkland executed a *Notice of Assignment* providing that all Kirkland's rights under the "Loan Documents have been sold transferred and assigned to the [BC Trust]." Adv. Doc. No. 424-7, Ex. 3 (Notice of Assignment); Tr. 361:20–368:5 and 398:25–400:3 (Kirkland's testimony regarding execution of the Notice of Assignment). Notwithstanding the language in the Notice of Assignment that the Loan Documents had been "sold" to the BC Trust, the BC Trust did not provide any consideration for the assignment of the Loan Documents. Poshow Depo. at 33:20–22 [Adv. Doc. No. 419, Ex. 7] ("Bright Conscience Trust didn't pay John Kirkland to put

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his loan into the Bright Conscience Trust."). [Note 9]

**D. Filing of the Financing Statement**

The Security Agreement provides that EPD will file and record a financing statement perfecting the Security Agreement (the "Financing Statement"), or will permit Kirkland to file and record the Financing Statement as EPD's attorney in fact. Security Agreement at ¶ 2(a).

At some point in 2007 after execution of the Security Agreement, Pressman told Kirkland that EPD had filed the Financing Statement, when in fact the Financing Statement had not been filed. Tr. 388:13–23 (testimony of Kirkland). [Note 10] On September 11, 2009, Pressman advised Kirkland that the Financing Statement had not been filed. Tr. 401:21–402:8 (testimony of Kirkland). Upon learning this information, Kirkland "went out of his mind." Tr. 667:9–12 (testimony of Pressman); *id.* at 401:21–402:18 (Kirkland's testimony that "he was not pleased," spoke to Pressman "more sternly than I probably should have," and told Pressman "I can't talk to you and I probably shouldn't be talking to you because I'm pretty upset"). Kirkland told Pressman to speak to Poshow Kirkland regarding the non-filing of the Financing Statement since the BC Trust had acquired all Kirkland's rights under the Loan Documents, and Poshow was the Trustee of the BC Trust. Tr. 402:9–21 (testimony of Kirkland).

On September 11, 2009, Pressman and Poshow, acting on behalf of the BC Trust, reached an agreement regarding the non-filing of the Financing Statement. The agreement was memorialized in a letter from Poshow to Pressman which provides in relevant part:

Of course I accept your apology for not filing the U.C.C. statement that was supposed to be done for the trust. We trust you and know our son's money is in good hands. I understand you can get busy and distracted and things get missed.... As agreed, the U.C.C. will be filed today. In consideration, the trust will release any claims against you and EPD, and also agree to extend the loans for at least another year as you asked.

Adv. Doc. No. 424-7, Ex. 14.

On September 11, 2009, Pressman told Kirkland that he had spoken with Poshow regarding the non-filing of the Financing Statement and that the issue had been resolved. Tr. 403:20–25 (testimony of Kirkland). Pressman instructed Kirkland to file

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the Financing Statement. Tr. 403:25–404:3 (testimony of Kirkland). On September 11, 2009, Kirkland filed the Financing Statement pursuant to Pressman's instructions. Tr. 404:4–11 (testimony of Kirkland). On September 14, 2009, Alexis Cassidy at National Corporate Research ("NCR") sent Kirkland an e-mail verifying the filing of the Financing Statement. Kirkland Depo., Ex. 51 (e-mail from Cassidy to Kirkland dated September 14, 2009).

**E. Filing of the UCC-3 Amending the Financing Statement**

On May 5, 2010, a UCC-3 amendment to the Financing Statement (the "UCC-3") was filed. The UCC-3 states: "This amendment is to clarify that the prior grant of security did not include the stock of North Hills Industrial Park, Inc., a California S-Corporation." The UCC-3 was filed by NCR at the request of Lisa Underkoffler. At the time, Underkoffler was Kirkland's legal secretary at Luce Forward, the firm at which Kirkland was a partner. Underkoffler Depo. at 13:15–14:4 [Adv. Doc. No. 419, Ex. 14].

On May 5, 2010, Katy Werner, an employee of EPD and BEM, sent an e-mail with the subject line "Re: FW: Hansel v. EPD" to Underkoffler and Kirkland (the "May 5, 2010 E-mail"). Tr. 114:15–115:15 (Werner's testimony that she was an employee of EPD and BEM); Adv. Doc. No. 432-2, Ex. 38 (May 5, 2010 E-mail). The May 5, 2010 E-mail references, but does not attach, the UCC-3, and provides in its entirety:

Hey Lisa,

We're forwarding 2 more UCC 3 filings to be done as soon as possible. Jerry will be faxing them directly to you in the next couple of hours. Let me know if this is a problem.

John, when are you back from China?

May 5, 2010 E-mail [Adv. Doc. No. 432-2, Ex. 38].

At a deposition taken on May 25, 2017, Underkoffler testified that she would not have sent the UCC-3 to NCR for filing absent Kirkland's authorization. Underkoffler Depo. at 70:12–51. However, at that same deposition Underkoffler also testified that she did not recall transmitting the UCC-3 to NCR for filing, *id.* at 68:25–69:4; that she did not recall the May 5, 2010 E-mail, *id.* at 68:12–14; that she did not recall any

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discussion as to why the UCC-3 was being filed, *id.* at 69:5–7; and that she did not remember who had instructed her to file the UCC-3, *id.* at 70:10–11.

In a declaration filed on September 23, 2020, Underkoffler testified that her statement at the May 25, 2017 deposition that she would not have transmitted the UCC-3 for filing absent Kirkland's authorization was "based on my general practice as a legal secretary, that I would not do anything that required an attorney's approval without receiving the attorney's approval." [Note 11] Underkoffler Decl. [Adv. Doc. No. 437] at ¶ 3. She further testified:

There is an e-mail from Jerrold Pressman's assistant [the May 5, 2010 E-mail], that indicates he was faxing some filings to me, and asked me to email them to an attorney service for him. For a client request like that, it has been my understanding as an experienced legal assistant that attorney approval may not be required especially when it says that Mr. Kirkland was out of the country. Also, Mr. Kirkland is not copied on my e-mail to the attorney service, which indicates that I might not have sent it at his request. Mr. Kirkland may not have authorized anything. I simply do not know. I did not recall at my deposition, and I do not recall now.

Underkoffler Decl. at ¶ 4. [Note 12]

On May 24, 2010, Kirkland sent Underkoffler an e-mail stating "[r]un a lien search on EPD Investment Co." Adv. Doc. No. 441, Ex. 32. NCR conducted the lien search at the direction of Luce Forward, Kirkland's law firm. Adv. Doc. No. 441, Ex. 13, at p. 725 (invoice issued by NCR on May 25, 2010, billing the lien search to Underkoffler at Luce Forward). The lien search shows the UCC-3 filing on May 5, 2010. Adv. Doc. No. 441, Ex. 13, at p. 727. On May 24, 2010, Kirkland sent Pressman an e-mail with the subject "FW: EPD Liens" that stated "2 liens currently in place on EPD. others have all expired." Adv. Doc. No. 441, Ex. 30.

**F. Subsequent Financing Statements Filed by the BC Trust**

On March 4, 2010, the BC Trust filed a financing statement against the assets of Keith Pressman (the "March 2010 Financing Statement"). Adv. Doc. No. 420, Ex. OO. At her deposition, Poshow testified that she was the only person authorized to act on behalf of the BC Trust subsequent to its formation. Poshow Depo. at 72:24–73:3 [Adv. Doc. No. 419, Ex. 7]. She further testified that she did not direct the filing of the March 2010 Financing Statement, *id.* at 72:16–23; that she could not explain why

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the BC Trust would have filed a financing statement against Keith Pressman's assets, *id.* at 73:5–10; that the BC Trust had never done business with Keith Pressman, *id.* at 70:22–71:3; and that she did not recall that the BC Trust had ever loaned money to Keith Pressman, *id.* at 71:16–20.

NCR, the same entity that transmitted the UCC-3 for filing, transmitted the March 2010 Financing Statement for filing. Adv. Doc. No. 420, Ex. OO. There is no documentary evidence in the record showing who directed NCR to transmit the March 2010 Financing Statement for filing.

On May 2, 2011, the BC Trust filed a financing statement against the assets of EPD Investment Leasing Co., LLC, an entity formed in 2010 (the "May 2011 Financing Statement"). Adv. Doc. No. 420, Ex. QQQ. Kirkland caused the May 2011 Financing Statement to be filed by sending an e-mail to Amy Brown of NCR on April 29, 2011. Adv. Doc. No. 419, Ex. 13, at p. 824 (e-mail from Kirkland to Amy Brown stating "[p]lease file the attached UCC-1 with the California Secretary of State"). On May 5, 2011, Amy Brown of NCR sent Kirkland an e-mail confirming that the May 2011 Financing Statement had been filed. Adv. Doc. No. 419, Ex. 13, at p. 826.

At her deposition, Poshow testified that she had not heard of EPD Investment Leasing Co., LLC, Poshow Depo. at 73:11–13; that she did not authorize Kirkland to file the May 2011 Financing Statement, *id.* at 74:6–22; that she did not know why Kirkland caused the May 2011 Financing Statement to be filed, *id.* at 75:14–19; and that she was unaware that the May 2011 Financing Statement had been filed, *id.* at 75:22–24.

**G. EPD's Retention of Luce Forward**

On June 17, 2009, Pressman, on behalf of EPD, returned to Kirkland an engagement agreement providing that Luce Forward would serve as legal counsel to EPD and its affiliates (the "Engagement Agreement"). Tr. 291:1–9 (testimony of Kirkland). The Engagement Agreement is dated February 17, 2009 but was signed by Pressman on behalf of EPD on June 17, 2009. *Id.* Kirkland was a partner at Luce Forward at the time of execution of the Engagement Agreement.

**H. The Involuntary Bankruptcy Petition Against EPD**

On December 7, 2010, creditors filed an involuntary Chapter 7 petition against EPD. Bankr. Doc. No. 1. On January 11, 2011, certain of the petitioning creditors moved to appoint an interim Chapter 7 Trustee. Bankr. Doc. No. 6 (the "Motion to Appoint"). On January 19, 2011, Kirkland filed on behalf of EPD an opposition to the



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Motion to Appoint. The opposition asserted that EPD was current on all obligations except for those subject to bona fide dispute:

Moving parties have utterly failed to make any factual showing that EPD is generally not paying its debts as they become due. This is not surprising given that, with the exception of the claims described above and claims of similar ilk which are subject to bona fide disputes, EPD does not have a single past due bill or late payment. In other words, EPD is generally paying its debts as they become due, unless such debts are subject to a bona fide dispute.

Bankr. Doc. No. 24 at 6.

At a hearing conducted on January 20, 2011, the Court denied the Motion to Appoint. Bankr. Doc. No. 62. On February 9, 2011, the Court entered an Order for Relief against EPD. Bankr. Doc. No. 29. On that same day, Kirkland filed on behalf of EPD a motion to reconsider entry of the Order for Relief. Bankr. Doc. No. 32 (the "Motion for Reconsideration"). In a declaration submitted in support of the Motion for Reconsideration, Kirkland testified that he had personal knowledge of the following facts:

[I]f not immediately set aside the entry of an Order for Relief would have devastating consequences on an Alleged Debtor. Because it would effectively cause an Alleged Debtor to cease its ability to operate as a going concern, the damage caused by such an order could not be undone, and would effectively result in the destruction of the company's business, or diminution in value of the estate, to the detriment of all creditors.

Bankr. Doc. No. 33 at ¶ 3.

On February 10, 2011, the Court denied the Motion for Reconsideration. Bankr. Doc. No. 36. On February 16, 2011, Kirkland filed on behalf of EPD a *Motion to Alter or Amend Order for Relief in an Involuntary Case Or, in the Alternative, for Relief from Default* [Bankr. Doc. No. 41] (the "Motion to Alter or Amend"). The Motion to Alter or Amend alleged that "entry of the order for relief will severely damage EPD's business, to the detriment of the estate and creditors." Bankr. Doc. No. 41 at 2. At a hearing conducted on March 29, 2011, the Court denied the Motion to Alter or Amend. Bankr. Doc. No. 122.

On February 24, 2011, Kirkland filed on behalf of EPD a *Motion to Convert*

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*Chapter 7 Case to a Chapter 11 Reorganization* [Bankr. Doc. Nos. 50–51] (the "Motion to Convert"). At a hearing conducted on April 12, 2011, the Court denied the Motion to Convert. Bankr. Doc. No. 126.

On March 17, 2011, the Trustee filed a motion to compel Kirkland and Luce Forward to cause EPD to file schedules, turnover books and records, and cooperate with the Trustee in the administration of the estate. Bankr. Doc. No. 68 (the "First Motion to Compel"). At a hearing conducted on April 12, 2011, the Court ordered EPD to file schedules by no later than April 14, 2011, to turnover books and records by no later than April 20, 2011, and to cooperate with the Trustee. Bankr. Doc. No. 125.

**I. Kirkland's Rule 2004 Examination Testimony**

On May 27, 2011, Kirkland appeared for a Rule 2004 examination. Kirkland stated that he was appearing both in his individual capacity and as the person most knowledgeable for the Bright Conscience Trust:

**Question:** And in the Motion for Rule 2004 examination, you were requested as a witness or an examinee in your individual capacity or as counsel for the debtor; there's also a request for the Bright Conscience Trust, person most knowledgeable of that entity, to appear on a later date. Are you here today on behalf of that entity as well?

**Answer:** Yes.

**Question:** And your counsel, Mr. Sahn, does he represent you individually here today?

**Answer:** Yes....

**Question:** It says he represents you in your capacity as person most qualified for the Bright Conscience Trust.

**Answer:** I would assume so.

Kirkland Rule 2004 Examination at 11:20–12:11.

At the Rule 2004 examination, Kirkland answered a number of questions regarding the Bright Conscience Trust. *See* Rule 2004 Examination at 14:18–20 (Kirkland's statement that he had not produced the trust instrument for the Bright Conscience Trust); *id.* at 15:2–6 (Kirkland's statement that he had produced all documents requested in the Rule 2004 Motion regarding the Bright Conscience Trust other than the trust instrument); *id.* 65:25–66:9 (Kirkland's testimony regarding his

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assignment of his interest in the Loan Documents to the Bright Conscience Trust); *id.* at 70:9–12 (Kirkland’s testimony regarding the Financing Statement filed in favor of the Bright Conscience Trust); *id.* at 133:19–134:7 (Kirkland’s testimony that he did not discuss with Pressman the fact that the Bright Conscience Trust was one of the two secured creditors set forth on EPD’s bankruptcy schedules); *id.* at 159:19–25 (Kirkland’s testimony that he did not believe it was a conflict of interest for him to represent EPD subsequent to the filing of the Financing Statement in favor of the BC Trust); and *id.* at 192:1–4 (Kirkland’s testimony that he had had no discussions regarding whether the BC Trust’s claim would be avoided in EPD’s involuntary bankruptcy case).

In connection with these cross-motions for summary judgment, the BC Trust has taken the position that Kirkland did not testify as the person most knowledgeable of the BC Trust at the May 27, 2011 Rule 2004 examination. The BC Trust’s theory is that Kirkland could not have so testified because "a trust is not an entity separate from its trustee," *Presta v. Tepper*, 179 Cal.App.4th 909, 911 (Cal. 2009), and it is therefore impossible even to designate a person most knowledgeable to testify on behalf of a trust. While that may be true, it misses the point, which is that by appearing at a Rule 2004 examination and answering a series of detailed questions regarding the BC Trust, Kirkland was acting to further the BC Trust’s interests vis-à-vis its secured claim, and was in that sense taking action on behalf of the BC Trust.

**J. The Court’s Approval of Settlement Agreements Between the Estate and Law Firms McKenna Long & Aldridge and Greenberg Traurig**

On October 22, 2013, the Court approved a settlement agreement between the Trustee and McKenna Long & Aldridge LLP ("McKenna Long"), the successor-in-interest to Luce Forward by way of merger (the "Luce Forward Settlement"). [Note 13] Bankr. Doc. No. 750 (order approving Luce Forward Settlement). The Luce Forward Settlement released Luce Forward and McKenna Long from the Trustee’s claims against the firms relating to (1) Luce Forward’s post-petition representation of EPD, including claims that Kirkland had filed false and misleading pleadings and declarations on behalf of EPD and (2) Luce Forward’s pre-petition representation of EPD, including claims relating to Kirkland’s alleged conflicts of interest. Bankr. Doc. No. 670 (Trustee’s description of claims resolved by the Luce Forward Settlement). [Note 14] McKenna Long paid the estate \$750,000.00 in exchange for the releases set forth in the Luce Forward Settlement.

The Luce Forward Settlement released Kirkland from "[a]ll of the Trustee’s

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claims or potential claims for professional negligence and/or legal malpractice and/or breach of fiduciary duty against Kirkland ... relating to or arising from the time period while Kirkland worked at, for, or was a partner or of counsel at, McKenna Long or its predecessor, Luce Forward" except for the following claims:

- 1) avoidance and recovery of transfers by EPD, Pressman, or any entity which Pressman had an ownership interest in, or for which Pressman was an officer, director, partner, limited partner, member or manager, made to or for the benefit of Kirkland, his family members and/or the Bright Conscience Trust (including but not limited to the transfers identified on Exhibits A through C of the First Amended Complaint against Kirkland and Poshow Kirkland, Adversary Proceeding No. 2:12-ap-02424-ER);
- 2) avoidance and recovery of the security interest(s), UCC-1 lien(s), and any amounts transferred to or for the benefit of the Bright Conscience Trust;
- 3) avoidance and recovery of the security interest(s), UCC-1 lien(s), and any amounts transferred to or for the benefit of HMB Holdings, LLC; and
- 4) disallowance and/or equitable subordination of any proof of claim(s) filed by or for the benefit of [the] Bright Conscience Trust, Kirkland, any family member of Kirkland, or by HMB Holdings, LLC (collectively, the "Remaining Kirkland Claims").

Luce Forward Settlement at ¶ 3 [Bankr. Doc. No. 507, Ex. A].

In addition to the exclusion of the Remaining Kirkland Claims, the Luce Forward Settlement also excluded "the Trustee's claims or potential claims against Kirkland ... for professional negligence and/or legal malpractice and/or breach of fiduciary duty and/or avoidance and recovery of preferential or fraudulent transfers relating to or arising from the time periods both before and after Kirkland worked at, for, or was a partner or of counsel at, McKenna Long ...." *Id.*

On October 16, 2013, the Court approved a settlement between the Trustee, on the one hand, and Greenberg Traurig LLP and Greenberg Traurig PA (collectively, "Greenberg Traurig"), on the other hand (the "Greenberg Traurig Settlement"). Bankr. Doc. No. 743 (order approving Greenberg Traurig Settlement). Greenberg Traurig paid the estate \$500,000.00 in exchange for the releases set forth in the Greenberg Traurig Settlement. Like the McKenna Long Settlement, the Greenberg Traurig Settlement released the Trustee's claims against Kirkland arising from his conduct while employed at Greenberg Traurig, but excluded the Remaining Kirkland Claims

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from the release. [Note 15] Bankr. Doc. No. 681, Ex. A at ¶ 4 (release provision of Greenberg Traurig Settlement). Specifically, the Greenberg Traurig Settlement released the Trustee's claims "arising from or relating to ... Kirkland's actions or failures to act as regard [to] the Debtors and relationships with and/or services provided to or for the benefit of the Debtors, including, but not limited to, any action for professional negligence, legal malpractice, breach of fiduciary duty, fraud, conspiracy, corporate waste or for avoidance and recovery of transfers arising under 11 U.S.C. §§ 544, 547, 548 and 550, California Civil Code § 3439, *et seq.*, and any other applicable state fraudulent transfer or fraudulent conveyance statutes." *Id.*

#### **IV. Summary of Arguments Made by the Parties**

##### **A. Amount of the BC Trust's Claim**

The Trustee argues that the BC Trust's claim cannot include Payments made to Keith Pressman or BEM, since Keith Pressman and BEM are not debtors and the payments to them did not benefit the estate. The BC Trust maintains that under the plain language of the Loan Documents, the BC Trust is entitled to a secured claim for the entire amount that Kirkland loaned, regardless of whether the Payments were made to EPD or to an EPD-affiliate.

##### **B. Assets to Which the BC Trust's Claim Can Attach**

The Trustee contends that the BC Trust's claim can attach only to the \$104,558.83 in proceeds collected from the liquidation of stock in Ice Skating Enterprises and Sidecreek Development. His position is that the BC Trust's claim cannot attach to \$3,886,650.83 in proceeds from settlements of the Trustee's avoidance claims, since the BC Trust cannot have a security interest in claims belonging to the estate and arising only as a result of the bankruptcy petition; that the BC Trust's claim cannot attach to \$3,615,817.85 in proceeds from a settlement with Robert Geringer because of the recordation of a UCC-3 providing that the BC Trust's security interest did not attach to the assets that were the subject of the Geringer settlement; and that the BC Trust's claim cannot attach to \$1,250,000.00 in proceeds from settlements with two of Kirkland's prior law firms, because a security interest cannot extend to an after-acquired commercial tort claim.

The BC Trust asserts that its security interest attaches to all assets of the estate. It contends that the UCC-3 modifying the scope of its security interest is invalid because it was not authorized by the BC Trust. It maintains that its security interest attaches to

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the proceeds of the settlements with Kirkland's prior law firms because such proceeds are general intangibles, not after-acquired commercial tort claims. The BC Trust relies upon *In re Figearo*, 79 B.R. 914, 918 (Bankr. D. Nev. 1987) for the proposition that proceeds collected from the Trustee's settlement of avoidance actions are subject to its security interest.

**C. The Equitable Subordination Claim**

The BC Trust contends that the jury's finding that Kirkland acted in good faith with respect to his receipt of the Mortgage Transfers requires entry of summary judgment in favor of the BC Trust on the Trustee's equitable subordination claim. According to the BC Trust, the Trustee has not alleged that the BC Trust engaged in any inequitable conduct independent of Kirkland. Since the jury's finding that Kirkland acted in good faith is inconsistent with a finding that Kirkland engaged in inequitable conduct, the BC Trust argues that summary judgment in its favor is appropriate.

The Trustee argues that the scope of the jury's good-faith finding is far more limited. His position is that the good-faith finding pertains only to the \$104,852.82 in Mortgage Transfers, not to the entirety of the BC Trust's claim.

**D. The Fraudulent Transfer Claims**

The Trustee argues that he is entitled to summary judgment on his fraudulent transfer claims because EPD's actual intent to defraud is established by the jury's finding that EPD operated as a Ponzi scheme. He further asserts that the BC Trust has failed to introduce sufficient evidence in support of its § 548(c) good-faith and fair-value affirmative defenses.

The BC Trust contends that the Trustee is not entitled to avoid the recordation of the Financing Statement as a fraudulent transfer because the Financing Statement merely secured the indebtedness for which EPD was already liable under the Loan Documents.

**V. Findings and Conclusions**

Summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material facts and the movant is entitled to judgment as a matter of law." Civil Rule 56 (made applicable to these proceedings by Bankruptcy Rule 7056). The moving party has the burden of establishing the absence of a genuine issue of material fact and that it is entitled to judgment as a matter of law. *Celotex Corp. v.*

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*Catrett*, 477 U.S. 317, 323 (1986). "[S]ummary judgment will not lie if the dispute about a material fact is "genuine," that is, if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). "A fact is 'material' only if it might affect the outcome of the case[.]" *Fresno Motors, LLC v. Mercedes Benz USA, LLC*, 771 F.3d 1119, 1125 (9th Cir. 2014). If the moving party shows the absence of a genuine issue of material fact, the nonmoving party must "go beyond the pleadings and by her own affidavits, or by the 'depositions, answers to interrogatories, and admissions on file,' designate 'specific facts showing that there is a genuine issue for trial.'" *Celotex*, 477 U.S. at 324 (quoting Fed. R. Civ. P. 56(e)). The court is "required to view all facts and draw all reasonable inferences in favor of the nonmoving party" when reviewing the Motion. *Brosseau v. Haugen*, 543 U.S. 194, 195 n.2 (2004).

As discussed in Section III, above, these cross-motions for summary judgment differ from typical summary judgment motions in that certain facts have been established by the jury trial. As to those facts established through the jury trial, the summary judgment standard for determining whether the fact is subject to genuine dispute does not apply.

**A. The BC Trust Holds an Allowed Secured Claim in the Amount of \$1,950,613.41**

Pursuant to § 502(a), a "claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest ... objects." Under Bankruptcy Rule 3001(f), a proof of claim executed and filed in accordance with the Bankruptcy Rules constitutes prima facie evidence of the validity and amount of the claim. To overcome the presumption of validity created by a timely-filed proof of claim, an objecting party must do one of the following: (1) object based on legal grounds and provide a memorandum of points and authorities setting forth the legal basis for the objection; or (2) object based on a factual ground and provide sufficient evidence (usually in the form of declarations under penalty of perjury) to create triable issues of fact. *In re G.I. Indus., Inc.*, 204 F.3d 1276, 1280 (9th Cir. BAP 2000); *In re Medina*, 205 B.R. 216, 222 (9th Cir. BAP 1996); *In re Hemingway Transport, Inc.*, 993 F.2d 915, 925 (1st Cir. 1993). Upon objection, a proof of claim provides "some evidence as to its validity and amount" and is "strong enough to carry over a mere formal objection without more." *See Lundell v. Anchor Constr. Spec., Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000) (citing *In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). An objecting party bears the burden and must "show facts tending to defeat the claim by

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probative force equal to that of the allegations of the proofs of claim themselves." *Holm*, 931 F.2d at 623. When the objector has shown enough evidence to negate one or more facts in the proof of claim, the burden shifts back to the claimant to prove the validity of the claim by a preponderance of evidence. *See Lundell*, 223 F.3d at 1039 (citation omitted).

The BC Trust filed four duplicative proofs of claim. The BC Trust has acknowledged that it is entitled to only a single satisfaction on account of its claim and does not seek a duplicative recovery. *See Adv. Doc. No. 430 at 23 n.7* ("While the BC Trust has submitted a total of four proofs of claim in this consolidated bankruptcy case, they are all based on the same loan to EPD and the same Payments Mr. Kirkland made pursuant to that loan. It is axiomatic that only one claim may be paid."). The Court will deem the BC Trust to have consented to the withdrawal of its duplicative proofs of claim, and will treat the BC Trust as though it had filed only a single proof of claim.

The Trustee devotes substantial space to asserting that the BC Trust's claim lacks *prima facie* validity because it was not accompanied by documentation sufficient to establish that Kirkland had loaned EPD the amounts set forth in the claim. The Trustee's emphasis upon the claim's alleged lack of *prima facie* validity is misdirected. At trial, sufficient evidence was introduced to show the validity of the claim. Consequently, whether the proof of claim was *prima facie* valid is irrelevant because the evidence introduced at trial adequately establishes the claim's validity. That evidence included the Loan Documents—consisting of the Note, Guaranty, and Security Agreement—evidencing EPD's liability to repay the amounts loaned by Kirkland; copies of checks and wire transfers showing that Kirkland made Payments of \$2,055,466.23 pursuant to the Loan Documents; and Kirkland's testimony that he made the Payments.

The Trustee next argues that the claim should not include Payments made to Keith Pressman or BEM. The evidence at trial shows that of the \$2,055,466.23 in Payments, a total of \$955,466.23 was paid directly to EPD (the Payments made on August 18, 2008 and July 24, 2009); a total of \$550,000.00 was paid to BEM (the Payments made on September 27, 2007 and March 26, 2008); and a total of \$300,000.00 was paid to Keith Pressman (the Payments made on September 27, 2007 and April 14, 2009). With respect to a Payment of \$150,000.00 made on November 8, 2007 and a Payment of \$100,000.00 made on July 20, 2008, the evidence in the record is not sufficient to indicate whether the Payments were made directly to EPD or to an EPD-affiliated entity for EPD's benefit.



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The Loan Documents establish EPD's liability for all Payments made thereunder, regardless of whether the Payments were made to EPD or to an EPD-affiliated entity for EPD's benefit. *See* Note ("EPD ... hereby promises to pay ... the amount set out above as the Original Principle Amount (as increased by the amount of any and all future loans or payments to [EPD] or *any of its affiliates* ..."); Guaranty at ¶¶ E-G (affirming EPD's liability for all Payments made pursuant to the Loan Documents, regardless of whether those Payments were made to EPD or to an EPD-affiliated entity for EPD's benefit); Guaranty at ¶ D (explaining that EPD would derive financial benefit from Payments made to its affiliates).

There can be no dispute that under the plain language of the Loan Documents, EPD is liable for all of the Payments. The Trustee's argument that the claim should not include Payments to BEM or Keith Pressman, EPD's affiliates, because EPD derived no benefit from such Payments, proves too much. It is almost always the case that companies that find themselves within bankruptcy have incurred liabilities that, with the benefit of hindsight, prove to have been a bad deal for the company. That is why the companies have filed or have been forced into bankruptcy. The Trustee's argument that the BC Trust's claim cannot include Payments that allegedly provided EPD no benefit would subject every secured claim to the possibility of disallowance based on after-the-fact assessments as to whether the debtor's incurrence of the obligation was a wise business decision.

It is true that the Trustee has the ability, under § 548(a)(1)(B), to avoid transfers where the debtor has received "less than a reasonably equivalent value," provided that other conditions are satisfied. Section 548(a)(1)(B) is of no assistance to the Trustee with respect to his arguments regarding the allowability of Payments made to BEM and Pressman, because the Complaint does allege that the Loan Documents are avoidable. Instead, the Complaint seeks to avoid the Financing Statement that was filed on September 11, 2009, approximately two years after the Loan Documents were executed. (As explained in Section V.B., below, the Trustee is entitled to avoidance of the Financing Statement, but the BC Trust is entitled to retain the Payments made by Kirkland because the jury's findings establish that the BC Trust received the Payments in good faith and for value.)

The Trustee objects to a finding that the BC Trust's claim includes all "Payments," as defined in the Guaranty, on the ground that the Guaranty defines "Payments" to include "consulting fees, advisory fees and professional service fees" paid to EPD or to EPD-affiliated entities. Relying upon *Merrill v. Abbott (In re Independent Clearing House Co.)*, 77 B.R. 843 (D. Utah 1987), the Trustee argues that requiring the estate

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to repay the BC Trust for fees paid by Kirkland to non-debtor third parties would amount to enforcement of a fraudulent contract.

In *Independent Clearing House*, the bankruptcy trustee sought to recover, as fraudulent transfers, profits that a Ponzi-scheme operator had paid to various investors. The court held that allowing the investors to recover funds beyond the principal of their investment "would be to further the debtors' fraudulent scheme at the expense" of the other investors. *Independent Clearing House*, 77 B.R. at 858.

The Court does not agree with the Trustee's contention that a finding that the BC Trust's claim includes all "Payments" as defined in the Guaranty constitutes enforcement of a fraudulent contract. First, the evidence establishes that Kirkland made Payments as requested by Pressman and neither inquired as to the purpose of the Payments or had any awareness of how EPD or EPD's affiliates internally booked the Payments. See Kirkland Decl. [Doc. No. 435] at ¶ 17 ("I had no knowledge of, and did not agree to, any internal classification by EPD of any portion of the \$855,466.23 amount [wired to EPD on August 18, 2008] as Consulting & Professional Fees, as a Nominee Distribution, or as anything else other than a loan."); Tr. at 386:16–18 (Kirkland's testimony that he had not seen any of EPD's financial statements as of July 2009). Second, a finding that the BC Trust's claim includes all Payments as defined in the Loan Documents does not mean that the BC Trust will recover funds in excess of the amounts that Kirkland actually paid in connection with the Loan Documents. As discussed above, the evidence establishes that Kirkland actually made \$2,055,466.23 in Payments to or for the benefit of EPD. Therefore, a finding that the BC Trust holds an allowed secured claim equal to the amount of Payments made by Kirkland will not enable the BC Trust to recover more than what was loaned. As a result, such a finding will not legitimize EPD's operation as a Ponzi scheme.

The Court does find it appropriate to reduce the amount of the BC Trust's allowed secured claim by \$104,852.82, the amount of the Mortgage Transfers. The jury trial established that EPD caused the Mortgage Transfers to be paid for Kirkland's benefit as a result of the Payments Kirkland had made pursuant to the Loan Documents. Accordingly, a reduction in the BC Trust's claim by the amount of the Mortgage Transfers is warranted. The Court finds that the BC Trust holds an allowed secured claim in the amount of \$1,950,613.41 (\$2,055,466.23 less \$104,852.82).

**B. The Trustee is Entitled to Partial Summary Adjudication With Respect to His Claims for to Avoid the BC Trust's Claim as an Actually Fraudulent Transfer, but the BC Trust is Entitled to Partial Summary Adjudication With Respect to**

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**Its Good-Faith and Fair Value Defenses**

Under § 548(a)(1)(A), the Trustee may avoid a transfer as actually fraudulent "if the debtor voluntarily or involuntarily made such transfer ... with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made ... indebted." For purposes of § 548(a)(1)(A), the "mere existence of a Ponzi scheme is sufficient to establish actual intent to defraud." *Donell v. Kowell*, 533 F.3d 762, 770 (9th Cir. 2008) (internal citation omitted).

Pursuant to § 548(c), the transferee of a transfer otherwise avoidable under § 548(a)(1)(A) that "takes for value and in good faith" may retain the transfer. Within the context of a Ponzi scheme, this "good faith" defense "permits an innocent winning investor to retain funds up to the amount of the initial outlay." *Id.*

Applying these principles to the instant case, the Trustee is permitted to avoid the Financing Statement that perfected the BC Trust's lien as an actually fraudulent transfer, because the jury trial established that EPD operated as a Ponzi scheme. However, as discussed below, the jury's finding that Kirkland received the Mortgage Transfers in good faith and for reasonably equivalent value establishes the BC Trust's good-faith defense under § 548(c). As a result, the BC Trust is entitled to an allowed secured claim in the amount of the funds that Kirkland loaned (\$1,950,613.41), but is not entitled to any interest thereon.

The jury's findings regarding Kirkland's good-faith were only as to the \$104,852.82 in Mortgage Transfers. However, a review of the evidence presented at trial, as well as the timeline of the relevant transactions, establishes that the jury could not have found that Kirkland acted in good-faith with respect to the Mortgage Transfers without also implicitly finding that Kirkland acted in good faith with respect to all of the funds loaned to or for the benefit of EPD.

In support of his contention that Kirkland had not acted in good faith, the Trustee presented to the jury evidence purporting to show that between 2004 and 2009, Kirkland knew or should have known that EPD was a Ponzi scheme that could not pay its debts as they came due absent cash infusions from new investors. Implicit in the jury's finding that Kirkland received the Mortgage Transfers in good faith and for a reasonably equivalent value is a finding that Kirkland was not aware that EPD was a Ponzi scheme. The jury received the following instruction regarding good faith:

"Good faith" means that Defendant [Kirkland] acted without actual fraudulent intent, that he did not collude with EPD and Pressman or otherwise actively participate in any fraudulent scheme, and that the circumstances were

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such that would not place a reasonable person on inquiry of EPD and Pressman's alleged fraudulent purpose, insolvency, or inability to pay debts as they became due and a diligent inquiry would not have discovered the fraudulent purpose, insolvency, or inability to pay debts as they became due.

If you decide that Defendant knew or should have known that EPD and Pressman had a fraudulent intent, or that the circumstances were such that would place a reasonable person on inquiry of EPD and Pressman's fraudulent purpose, *insolvency, or inability to pay debts as they became due and a diligent inquiry would have discovered the fraudulent purpose, insolvency, or inability to pay debts as they became due*, then Defendant cannot have taken the property, interests in property, monies, or liens in good faith.

Jury Instruction No. 30 (emphasis added).

The jury received the following instruction regarding the definition of a Ponzi scheme:

A Ponzi scheme is a financial fraud that induces investment—often by promising high, risk-free returns within a relatively short time period. In a Ponzi scheme, payments are made to investors or lenders from later investments or loans rather than from profits of the underlying business venture. The fraud consists of transferring proceeds received from the new investors to previous investors, thereby giving other investors the impression that a legitimate profit-making business opportunity exists, where in fact no such opportunity exists. Distributing funds to earlier investors from the receipt of monies from later investors or lenders is the hallmark of Ponzi schemes.

Jury Instruction No. 26.

These jury instructions demonstrate that in finding that Kirkland received the Mortgage Transfers in good faith, the jury found that Kirkland acted without fraudulent intent, that he did not collude with EPD and Pressman, that he did not participate in any fraudulent scheme, and that the circumstances were not sufficient to put a reasonable person on notice of any fraudulent activities at EPD. Given that the jury was instructed that a Ponzi scheme is a "financial fraud" that involves giving investors the false impression that a legitimate profit-making business opportunity exists, it could not have found that Kirkland received the Mortgage Transfers in good faith if it also believed that Kirkland was aware that EPD was a Ponzi scheme.

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As a result of the timing of the relevant transactions, the jury could not have found that Kirkland acted in good faith with respect to his receipt of the Mortgage Transfers unless it also believed Kirkland acted in good faith with respect to all of the Payments Kirkland made pursuant to the Loan Documents. The Mortgage Transfers commenced on October 5, 2008 and continued through December 14, 2009. Kirkland made the first Payment pursuant to the Loan Documents on September 27, 2007, and made the final Payment on July 24, 2009. The jury found that Kirkland could not have been aware of any fraudulent purpose on the part of EPD, and could not have known that EPD operated as a Ponzi scheme as of December 14, 2009, the date upon which Kirkland received the last Mortgage Transfer. Since Kirkland made the Payments prior to receiving the last of the Mortgage Transfers, he could not have been aware of any issues with EPD at the time the Payments were made.

Finally, and most significant, the timeline also means that Kirkland was acting in good faith when he recorded the Financing Statement at the direction of Pressman on September 11, 2009. The jury found that Kirkland acted in good faith with respect to the receipt of Mortgage Transfers on September 5, 2009 and October 5, 2009. It is not plausible that Kirkland was acting in good faith on September 5, was not acting in good faith when he recorded the Financing Statement at Pressman's direction on September 11, and then was acting in good faith again on October 5, 2009.

The Trustee asserts that the BC Trust has not carried its burden with respect to the good-faith defense under § 548(c). The Trustee is correct that it is the BC Trust's burden to establish its defense under § 548(c). *See In re Agric. Research & Tech. Grp., Inc.*, 916 F.2d 528, 535 (9th Cir. 1990) (transferee bears the burden of establishing that it received the transfer in good faith).

The Trustee's theory is that the BC Trust did not obtain the benefit of the Financing Statement in good faith because Kirkland's alleged bad-faith conduct must be imputed to the BC Trust. The jury's finding that Kirkland acted in good faith prior to the recordation of the Financing Statement is fatal to this theory. By virtue of the jury's finding that Kirkland acted in good faith, the BC Trust has carried its burden with respect to § 548(c).

The Trustee also seeks to avoid the filing of the Financing Statement as actually fraudulent pursuant to § 544 and Cal. Civ. Code § 3439.04. The provisions of California law regarding the avoidance of actually fraudulent transfers are substantially the same as the provisions of the Bankruptcy Code. Application of California law does not yield a result different from the application of federal law.

The BC Trust argues that the Trustee's claims to avoid the transfer as actually

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fraudulent fail given that the Financing Statement provided value by securing an antecedent debt. As discussed in Section V.B., below, the recordation of a Financing Statement securing an antecedent debt is not a *constructively* fraudulent transfer. However, this principle is limited to *constructively* fraudulent transfer claims; it does not apply to *actually* fraudulent transfer claims. To avoid a transfer as actually fraudulent, the Trustee is not required to show that the debtor received less than a reasonably equivalent value. All that the Trustee is required to show is that the transfer was made "with actual intent to hinder, delay, or defraud" creditors. § 548(a)(1)(A). The cases holding that the securing of an antecedent debt constitutes value apply only to the Trustee's claims to avoid the transfer as *constructively* fraudulent under § 548(a)(1)(B), and have no application to the Trustee's claims to avoid the transfer as *actually* fraudulent under § 548(a)(1)(A).

**C. The BC Trust is Entitled to Summary Adjudication on the Trustee's Claims for Constructively Fraudulent Transfer**

Under § 548(a)(1)(B), the Trustee may avoid a transfer as constructively fraudulent if the debtor "received less than a reasonably equivalent value in exchange for such transfer" and certain other conditions are satisfied. For purposes of § 548(a)(1)(B), "value" means the "satisfaction or securing of a present or antecedent debt of the debtor ...." § 548(d).

"[A] debtor's grant of a security interest in its assets to a lender who has previously given the debtor a cash loan may not be considered a [constructively] fraudulent conveyance." *In re AppliedTheory Corp.*, 330 B.R. 362, 363 (S.D.N.Y. 2005). This follows from § 548(d)'s definition of "value" as the securing of an antecedent debt, which means that "when a debtor grants a security interest to a lender in respect of antecedent debt, the debtor must *necessarily* receive reasonably equivalent value or fair consideration in exchange." *In re AppliedTheory Corp.*, 323 B.R. 838, 841–42 (Bankr. S.D.N.Y.), *aff'd*, 330 B.R. 362 (S.D.N.Y. 2005); *see also Official Comm. of Unsecured Creditors v. BNP Paribas (In re Propex, Inc.)*, 415 B.R. 321, 332 (Bankr. E.D. Tenn. 2009) ("[T]he Bankruptcy Code's fraudulent conveyance statute expressly provides that "value" includes the securing of an antecedent debt .... An untimely perfection of a security interest securing an antecedent debt ... is not avoidable as a fraudulent transfer."); *In re Kaplan Breslaw Ash, LLC*, 264 B.R. 309, 327–30 (Bankr. S.D.N.Y. 2001) (same).

Here, the Trustee seeks to avoid as constructively fraudulent the filing of the Financing Statement, which occurred on September 11, 2009. At the time the

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Financing Statement was filed, Kirkland had already made \$2,055,466.23 in Payments to or for the benefit of EPD. The Financing Statement secured an antecedent debt and is therefore not avoidable as a constructively fraudulent transfer.

The Trustee also seeks to avoid the filing of the Financing Statement as constructively fraudulent pursuant to § 544 and Cal. Civ. Code § 3439.07. Like the Bankruptcy Code, the constructively fraudulent transfer provisions of California law define "value" as the securing of an antecedent debt. Cal. Civ. Code § 3439.03. The Trustee's constructively fraudulent transfer claim under California law fails for the same reason that the claim under § 548(a)(1)(B) fails.

**D. Neither Party is Entitled to Summary Adjudication With Respect to the Trustee's Equitable Subordination Claim**

Section 510(c) provides that "the court may under principles of equitable subordination, subordinate for purposes of distribution all or part of an allowed claim to all or part of another allowed claim." The subordination of a claim based on equitable considerations generally requires three findings: "(1) that the claimant engaged in some type of inequitable conduct, (2) that the misconduct injured creditors or conferred unfair advantage on the claimant, and (3) that subordination would not be inconsistent with the Bankruptcy Code." *Henry v. Lehman Comm. Papers, Inc. (In re First All. Mortgage Co.)*, 471 F.3d 977, 1006 (9th Cir. 2006). If the claimant is not an insider or a fiduciary, "gross and egregious conduct will be required before a court will equitably subordinate a claim." *Id.*

"[T]he equitable subordination inquiry focuses on the conduct of the claimant at issue, and the nature of its relationship to the debtor." *Stoumbos v. Kilimnik*, 988 F.2d 949, 959 (9th Cir. 1993). "The remedy of equitable subordination is remedial rather than punitive in nature. A claim should be subordinated only to the extent necessary to offset the harm suffered" on account of the inequitable conduct. *Naylor v. Farrell (In re Farrell)*, 610 B.R. 317, 324 (Bankr. C.D. Cal. 2019), *appeal dismissed sub nom. Farrell*, No. 8:16-AP-01123-MW, 2020 WL 3965023 (C.D. Cal. Apr. 2, 2020) (internal citations omitted). "Subordination is a means of regulating distribution results in bankruptcy by adjusting the order of creditors' payments to the equitable levels of their comparative claim positions.... (I)ts fundamental aim is to undo or to offset any inequity in the claim position of a creditor that will produce injustice or unfairness to other creditors in terms of the bankruptcy results." *Trone v. Smith (In re Westgate-California Corp.)*, 642 F.2d 1174, 1177 (9th Cir. 1981) (internal citation omitted).

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The BC Trust raises a number of arguments that must be disposed of before the Court moves to an examination of the equitable subordination elements set forth in *First Alliance*. First, the BC Trust argues that the Luce Forward and Greenberg Traurig Settlements preclude the Trustee from asserting that the BC Trust's claim can be subordinated based on Kirkland's inequitable conduct. The BC Trust maintains that these settlements released the Trustee's claims for any tortious conduct committed by Kirkland. The BC Trust overlooks the fact that the releases in the settlements expressly carved out the Trustee's claims against Kirkland and the BC Trust that are the subject of this litigation. See Section III.J., above (setting forth the terms of the settlements).

Second, the BC Trust asserts that the Trustee's theory of the case—that Kirkland's alleged inequitable conduct can be imputed to the BC Trust as Kirkland's assignee—has been rejected by *U.S. Bank v. The Vill. at Lakeridge, LLC (In re The Vill. at Lakeridge, LLC)*, 814 F.3d 993, 996 (9th Cir. 2016), *aff'd sub nom. U.S. Bank Nat. Ass'n ex rel. CWC Capital Asset Mgmt. LLC v. Vill. at Lakeridge, LLC*, 138 S. Ct. 960, 200 L. Ed. 2d 218 (2018). In *Lakeridge*, the court held that a creditor did not become a statutory insider solely by acquiring a claim from a statutory insider. The court held that for purposes of determining a claim's insider status, "general assignment law—in which an assignee takes a claim subject to any benefits and defects of the claim—does not apply." *Id.* at 1000. According to the BC Trust, *Lakeridge* means that when the BC Trust acquired its interest in the Loan Documents from Kirkland, the BC Trust *did not* take that interest subject to any defects emanating from Kirkland's alleged inequitable conduct.

The BC Trust's argument stretches *Lakeridge*'s holding too far. Contrary to the BC Trust's contention, *Lakeridge* did not hold that general assignment law could never apply when a transferred claim is at issue in a bankruptcy proceeding. *Lakeridge* held only that for purpose of determining a claim's insider status, general assignment law does not apply. See *Lakeridge*, 814 F.3d at 1000 ("Because insider status is not a property of a claim, general assignment law—in which an assignee takes a claim subject to any benefits and defects of the claim—does not apply."). *Lakeridge* applies only for purposes of determining a claim's insider status and does not abrogate general assignment law in its entirety. Had the *Lakeridge* court intended such a sweeping result, it certainly would have said so. Notwithstanding *Lakeridge*, general assignment law—in which the "assignee 'stands in the shoes' of the assignor, taking his rights and remedies, subject to *any defenses* which the *obligor* has against the assignor prior to notice of the assignment"—remains valid. See *Johnson v. Cty. of*



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*Fresno*, 111 Cal. App. 4th 1087, 1096, 4 Cal. Rptr. 3d 475, 482 (2003); *see also Searles Valley Minerals Operations Inc. v. Ralph M. Parson Serv. Co.*, 191 Cal. App. 4th 1394, 1402, 120 Cal. Rptr. 3d 487, 493 (2011) (same). Under principles of general assignment law, the Trustee may assert that the BC Trust's claim is subject to equitable subordination based upon Kirkland's alleged inequitable conduct.

Third, the BC Trust argues that the Trustee may not rely upon Kirkland's conduct subsequent to September 11, 2010, the date upon which the BC Trust was established, in support of his equitable subordination claim. In support of this proposition, the BC Trust points to California trust law, which holds that "a settlor's conduct after an irrevocable trust has been established will not alter the nature of such a trust." *Laycock v. Hammer*, 141 Cal.App.4th 25, 31 (Cal. 2006).

A determination that the BC Trust's claim may be equitably subordinated based on Kirkland's conduct subsequent to formation of the BC Trust does not conflict with California trust law. Were the Court to equitably subordinate the BC Trust's claim, it would not be altering the nature of the trust. Instead, the Court would be limiting the BC Trust's ability obtain a distribution from the estate. Section 510 of the Bankruptcy Code authorizes the Court to limit the ability of claimants to obtain a distribution from the estate under appropriate circumstances.

Fourth, the BC Trust argues that the Trustee cannot seek equitable subordination on the basis that Kirkland was EPD's attorney and therefore a fiduciary. The BC Trust asserts that at the jury trial, the Trustee took the position that Kirkland was an insider of EPD and Pressman. According to the BC Trust, now that the jury has found that Kirkland was not an insider, the Trustee has shifted to arguing that equitable subordination is warranted based on Kirkland's status as a fiduciary (as opposed to arguing that equitable subordination is warranted based on Kirkland's status as an insider). The BC Trust's position is that claim preclusion bars the Trustee from arguing that Kirkland was a fiduciary.

"Under the doctrine of claim preclusion, a final judgment forecloses successive litigation of the very same claim, whether or not relitigation of the claim raises the same issues as the earlier suit." *Taylor v. Sturgell*, 553 U.S. 880, 892, 128 S. Ct. 2161, 2171, 171 L. Ed. 2d 155 (2008) (internal quotation omitted). By "precluding parties from contesting matters that they have had a full and fair opportunity to litigate," the doctrine protects against "the expense and vexation attending multiple lawsuits, conserv[es] judicial resources, and foste[rs] reliance on judicial action by minimizing the possibility of inconsistent decisions." *Id.* Claim preclusion applies "when there is: (1) an identity of claims; (2) a final judgment on the merits; and (3) identity or privity

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between parties.” *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002) (internal quotation omitted).

Here, claim preclusion does not bar the Trustee’s argument that Kirkland was a fiduciary for two reasons. First, the District Court has not entered any judgment in connection with the jury’s verdict in favor of Kirkland, so there is no final judgment on the merits. Second, the District Court bifurcated the trial of the Trustee’s claims against Kirkland and his claims against the BC Trust. As a result of this bifurcation, the Trustee has not had a “full and fair opportunity to litigate” his claims against the BC Trust, including claims predicated upon the allegation that Kirkland is a fiduciary.

**[Note 16]**

The Trustee is not required to show that Kirkland was an insider of EPD or Pressman to prevail upon his equitable subordination claim. As explained in *First Alliance Mortgage*, equitable subordination may be invoked “[w]here non-insider, non-fiduciary claims are involved,” but only upon a showing of “gross and egregious conduct.” 471 F.3d at 1006. The Trustee is not required to show “gross and egregious conduct” to prevail upon his equitable subordination claim, because Kirkland was a fiduciary of EPD. Kirkland represented EPD and filed papers on its behalf subsequent to the commencement of the involuntary petition. *See* Section III.H., above. At the same time he was a fiduciary of EPD, Kirkland continued to act on behalf of the BC Trust. Kirkland directed the filing of the May 2011 Financing Statement on behalf of the BC Trust, *see* Section III.F., above, and acted on behalf of the BC Trust by providing detailed testimony with respect to the trust at the May 27, 2011 Rule 2004 examination, *see* Section III.I., above.

Having disposed of the threshold objections asserted by the BC Trust, the Court now turns to an examination of the equitable subordination factors. The Court finds that genuine issues of material fact exist which preclude the entry of summary judgment in favor of either party with respect to the equitable subordination claim. However, the findings made by the jury have substantially narrowed the facts that remain at issue.

As discussed in Section V.B., above, the jury could not have found that Kirkland acted in good faith with respect to his receipt of the Mortgage Transfers unless it also believed Kirkland acted in good faith with respect to all of the Payments Kirkland made pursuant to the Loan Documents. Kirkland received the final Mortgage Transfer on December 14, 2009. The Trustee alleged that Kirkland engaged in a number of bad-faith acts prior to this date, yet the jury still determined that Kirkland received the Mortgage Transfers in good faith. To the extent that the Trustee’s equitable

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subordination claim is predicated upon the imputation to the BC Trust of Kirkland's conduct prior to December 14, 2009, the jury's good-faith finding has eliminated the claim. It is not possible for Kirkland to have engaged in inequitable conduct in good faith.

The jury's good-faith finding does not completely insulate the BC Trust from the Trustee's equitable subordination claim. The Trustee asserts that equitable subordination is warranted based on actions taken by Kirkland subsequent to December 14, 2009, including but not limited to actions taken by Kirkland in connection with his representation of EPD subsequent to the involuntary bankruptcy filing. The jury's finding that Kirkland acted in good faith with respect to his receipt of the Mortgage Transfers obviously says nothing about whether actions taken by Kirkland subsequent to receipt of the Mortgage Transfers were in good faith.

Although Kirkland assigned his interest in the Loan Documents to the BC Trust on September 9, 2009, the Trustee may still rely upon actions taken by Kirkland subsequent to that date in support of his equitable subordination claim. Kirkland's post-assignment actions may be imputed to the BC Trust for purposes of equitable subordination because Kirkland continued to act on behalf of the BC Trust post-assignment, as discussed above.

**E. The BC Trust's Claim Attaches to Only Some of the Estate's Assets**

Receipts generated from the Trustee's administration of the estate total \$8,896,503.98. As explained below, the BC Trust's secured claim can attach to only \$3,720,376.68 of these proceeds (the \$3,615,817.85 collected in a settlement with Robert Geringer and the \$104,558.83 collected from the liquidation of stock in Ice Skating Enterprises and Sidecreek Development).

**1. The BC Trust's Secured Claim Does Not Attach to Proceeds from the Settlement of the Trustee's Avoidance Claims**

The Trustee has collected \$3,886,650.83 from the settlement of avoidance actions under § 548. As a matter of law, the BC Trust's secured claim cannot attach to these settlement proceeds.

In *McGoldrick v. Juice Farms, Inc. (In re Ludford Fruit Prod., Inc.)*, 99 B.R. 18, 24–25 (Bankr. C.D. Cal. 1989), the court rejected a creditor's contention that it held a security interest in the recoveries obtained by the Trustee through the exercise of his avoidance powers. The *Ludford Fruit* court reasoned that "it is difficult to understand how an avoidance power action that springs into being with the commencement of a

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bankruptcy case could be the proceeds of *any* form of collateral.” *Id.*

The BC Trust cites *In re Figearo*, 79 B.R. 914, 918 (Bankr. D. Nev. 1987) for the proposition that proceeds collected from the settlement of a fraudulent transfer action may be subject to a creditor’s security interest. The Court declines to follow *Figearo*, which is contrary to *Ludford Fruit*. The leading treatise, *Collier on Bankruptcy*, is consistent with *Ludford Fruit*:

Some courts have ruled that, where the creditor has an independent right to recover the property in question, the creditor may claim an interest in that same property if and when it is recovered by the trustee pursuant to an avoiding power under the Bankruptcy Code. Under this reasoning, monies recovered as the result of a fraudulent transfer action sometimes are found to be "proceeds" of the creditor’s independent right to follow such monies when they are traceable into the hands of the transferee....

Once a bankruptcy case commences, however, because all recoveries under the avoiding powers are property of the estate, administered almost exclusively by the trustee for the benefit of the estate as a whole rather than for any creditor individually, it is difficult to see how such recoveries can be other than "after-acquired property" within the meaning of section 552(a), rather than proceeds of prepetition collateral under section 552(b)(1). This is true for fraudulent transfers as well as preferences, and no persuasive distinction seems possible along these lines. Prebankruptcy state law preferences exist, and may be asserted postbankruptcy under section 544(b) of the Bankruptcy Code. And the assertion by a trustee of state fraudulent transfer law under section 544(b) allows for an expanded recovery under the rule of *Moore v. Bay*, as well as section 550, underscoring the fact that the recoveries that are property of the estate under section 541(a)(3) are peculiarly postpetition in nature. Indeed, a creditor may not sue to recover a state law fraudulent transfer once a case in bankruptcy is commenced, because this would be taking a chose in action from the estate, thereby violating the automatic stay. On the whole, therefore, the more persuasively reasoned opinions do not permit secured creditors to share in recoveries obtained by bankruptcy trustees or estate representatives pursuant to the avoiding powers, even where such creditors may have independent, traceable rights to those funds.

5 *Collier on Bankruptcy* ¶ 552.02 (16th ed. 2020).

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The Court further notes that *Figearo* is contrary to the weight of authority and has not been followed by more recent cases. *See, e.g., Official Committee of Unsecured Creditors v. UMB Bank, NA et al. (In re Residential Capital, LLC)*, 497 B.R. 403, 414 (Bankr. S.D.N.Y. 2013) (declining to follow *Figearo*; holding that the Trustee's avoidance power claims "must be considered after-acquired property belonging to the estate"; and holding that "because the Debtor does not own the right to pursue a fraudulent transfer action in bankruptcy (since that action belongs to the trustee post-petition under section 554(b)), the Debtor could not have encumbered or assigned that right prepetition").

2. The BC Trust's Secured Claim Does Not Attach to Proceeds of the Luce Forward and Greenberg Traurig Settlements

Aggregate proceeds of the Luce Forward and Greenberg Traurig Settlements are \$1,250,000.00 (consisting of \$750,000.00 from the Luce Forward Settlement and \$500,000.00 from the Greenberg Traurig Settlement). Both settlements released the firms from the Trustee's claims for "professional negligence" and "legal malpractice" arising in connection with actions Kirkland took or failed to take with respect to EPD. As such, the proceeds of the settlements qualify as a "commercial tort claim" pursuant to Cal. Com. Code § 9-204. *See* Cal. Com. Code § 9-102 (defining a "commercial tort claim" as "a claim arising in tort," provided that "[t]he claimant is an organization").

Although the Security Agreement giving rise to the BC Trust's secured claim provides for a security interest in "commercial tort claims," the BC Trust's secured claim does not attach to the proceeds of the Luce Forward and Greenberg Traurig Settlements for two reasons. First, a "security interest does not attach under a term constituting an after-acquired property clause to ... [a] commercial tort claim." Cal. Com. Code § 9-204(b)(2). The Editors' Note to § 9-204 explains:

Subsection (b)(2) provides that an after-acquired property clause in a security agreement does not reach future commercial tort claims. In order for a security interest in a tort claim to attach, the claim must be in existence when the security agreement is authenticated.

Editors' Note to Cal. Com. Code § 9-204.

Second, a security interest can attach to a commercial tort claim only if the security agreement adequately describes the claim. "A description only by type of collateral defined in this code is an insufficient description of ... [a] commercial tort

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claim." Cal. Com. Code § 9-108(e)(1). The Editors' Note to § 9-108(e) explains:

Under Section 9-204, an after-acquired collateral clause in a security agreement will not reach future commercial tort claims. It follows that when an effective security agreement covering a commercial tort claim is entered into the claim already will exist. Subdivision (e) does not require a description to be specific. For example, a description such as "all tort claims arising out of the explosion of debtor's factory" would suffice, even if the exact amount of the claim, the theory on which it may be based, and the identity of the tortfeasor(s) are not described. (Indeed, those facts may not be known at the time.)

Editors' Note Cal. Com. Code § 9-108.

Here, the Security Agreement states only that it applies to "commercial tort claims." That description lacks the necessary specificity. Even if a security agreement could attach to after-acquired commercial tort claims (which it cannot), a description such as "all tort claims arising from actions or inactions taken by Kirkland" would be necessary in order for the security interest to attach. **[Note 17]**

The BC Trust asserts that the Trustee cannot obtain summary judgment that the BC Trust's secured claim does not attach to the proceeds of the Luce Forward and Greenberg Traurig Settlements because the Complaint does not specifically allege that such proceeds are not subject to the BC Trust's claim. The BC Trust is mistaken. The Complaint alleges that the BC Trust's claim is subject to disallowance. Under Civil Rule 8, the Complaint is required to contain only "a short and plain statement of the claim showing that the pleader is entitled to relief," as well as "a demand for the relief sought ...." The allegation that the BC Trust's claim is subject to disallowance is sufficient to encompass the Trustee's contention that the claim cannot attach to the proceeds of the law firm settlements. The Trustee was not required to specifically allege in the Complaint that the BC Trust's claim could not attach to the law firm settlements in order to preserve this claim.

The BC Trust also argues that since the jury found that Kirkland acted in good faith, Kirkland cannot also be found to have committed a tort while at Greenberg Traurig or Luce Forward. This argument is unavailing. In determining that the proceeds of the Luce Forward and Greenberg Traurig Settlement qualify as "commercial tort claims," the Court is not finding that Kirkland, Luce Forward, Greenberg Traurig, or anyone else engaged in tortious conduct. Indeed, the Settlement

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Agreements expressly provide that the law firms do not admit to any wrongdoing. The only finding the Court is making is that for purposes of determining the scope of the BC Trust's secured claim, the subject matter of the settlements is a "commercial tort claim" within the meaning of the California Commercial Code.

Finally, in an effort to escape the California Commercial Code's limitations on the attachment of commercial tort claims, the BC Trust argues that proceeds of the law firm settlements are "general intangibles," rather than "commercial tort claims." The argument lacks merit. Cal. Com. Code § 9-102 defines a "general intangible" as "any personal property, including things in action, *other than* ... commercial tort claims ...." As discussed above, the Trustee's claims for professional negligence and legal malpractice qualify as commercial tort claims. Therefore, such claims cannot also qualify as general intangibles.

3. The BC Trust's Secured Claim Attaches to the Proceeds of the Settlement with Robert Geringer

The Trustee has collected \$3,615,817.85 from a settlement with Robert Geringer (the "Geringer Settlement"). The settlement proceeds represent the amount that Geringer paid Pressman for stock in North Hills Industrial Park, Inc. ("NHIP"). The BC Trust asserts that its secured claim extends to the proceeds of the Geringer Settlement as a result of the Financing Statement. It contends that the UCC-3 recorded on May 5, 2010 that excepted the stock of NHIP from the scope of the Financing Statement is void because it was not authorized by the BC Trust. The Trustee argues that the UCC-3 is valid. He maintains that the BC Trust can be bound by Kirkland's actions because Kirkland continued to act on behalf of the BC Trust even though Poshow was designated as the sole Trustee; that the UCC-3 was transmitted for filing by Underkoffler, Kirkland's agent; and that consequently the BC Trust is bound by the UCC-3.

The Security Agreement states that its provisions may be modified only by a writing signed by the party against whom the modification is sought:

Neither this Security Agreement nor any provision hereof may be changed, waived, discharged or terminated orally but only by a statement in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

*Id.* at ¶ 14(a).

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Pursuant to Cal. Com. Code § 9-509(d)(1), modifications to a financing statement are valid only if “the secured party of record authorizes the filing.” Here, the Security Agreement expressly provides that the secured party can modify the Security Agreement only through a signed writing. No signed writing modifying the Security Agreement has been produced. Therefore, the UCC-3, which purports to modify the scope of the assets secured by the Security Agreement, is invalid.

The absence of a signed writing authorizing the filing of the UCC-3 is dispositive as to the UCC-3’s validity. However, even if the Court were to disregard the plain language of the Security Agreement and determine that the scope of the BC Trust’s security could be altered by means other than a signed writing (a finding the Court does not make), the Trustee has not provided sufficient evidence in support of his agency theory to defeat summary adjudication. In support of the contention that Underkoffler caused the UCC-3 to be filed at Kirkland’s direction, the Trustee relies upon the following testimony from Underkoffler’s May 25, 2017 deposition:

**Question:** Would you have sent UCC statements for filing with National Corporate Research in relation to EPD if John Kirkland hadn’t authorized them in advance?

**Answer:** No.

Underkoffler Depo. at 70:12–15.

Taken in isolation, this testimony appears to suggest that Kirkland must have authorized Underkoffler to file the UCC-3. But at the same deposition, Underkoffler also testified that she did not recall any of the events surrounding the filing of the UCC-3. *See* Section III.E., above. Underkoffler has also clarified that her statement that she would not have sent the UCC-3 absent Kirkland’s authorization was based on her general practice as a legal secretary, and that she simply did not remember whether the UCC-3 was authorized by Kirkland or not. *Id.* Taken as a whole, Underkoffler’s testimony is that she does not remember what happened with respect to the UCC-3.

Further, to the extent that any conclusions can be drawn from the sparse record, the May 5, 2010 E-mail, which was sent to Underkoffler by Pressman’s assistant Katy Werner, suggests that Underkoffler filed the UCC-3 because Pressman wanted the filing done as soon as possible. The May 5, 2010 E-mail, which is addressed directly to Underkoffler, provides in its entirety:



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Hey Lisa,

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We're forwarding 2 more UCC 3 filings to be done as soon as possible. Jerry will be faxing them directly to you in the next couple of hours. Let me know if this is a problem.

John, when are you back from China?

May 5, 2010 E-mail [Adv. Doc. No. 432-2, Ex. 38].

Notably, the financing statements in question were not attached to the May 5, 2010 E-mail, so Kirkland could not have been aware of the scope of the UCC-3 even though he was copied on the May 5, 2010 E-mail. Kirkland became aware of the scope of the UCC-3 on May 24, 2010, after he told Underkoffler to run a lien search. *See* Section III.E., above. That Kirkland became aware of the UCC-3 several weeks after it was filed does not support the Trustee's position that Kirkland authorized the filing of the UCC-3 on behalf of the BC Trust.

**4. The BC Trust's Secured Claim Attaches to Proceeds from the Trustee's Sale of Stock in Ice Skating Enterprises and Sidecreek Development**

The Trustee has collected \$54,558.83 from the sale of stock in Ice Skating Enterprises and \$50,000.00 from the sale of stock in Sidecreek Development. The Trustee does not dispute that the BC Trust's secured claim attaches to the \$104,588.83 in proceeds from these stock sales.

**F. The Court Declines to Enter Final Judgment Pursuant to Civil Rule 54(b)**

Where some but not all claims in an action have been adjudicated, Civil Rule 54(b) permits the Court to enter final judgment as to those claims that have been adjudicated, but "only if the court expressly determines that there is no just reason for delay." The Trustee requests that the Court enter final judgment under Civil 54(b) as to the claims that have been adjudicated. The Court declines to do so. Entering final judgment on only some of the claims would create unnecessary procedural complications with respect to any appeals that may be filed. Further, the District Court has not entered final judgment with respect to the claims against Kirkland. Since the Trustee's claims against the BC Trust are significantly intertwined with his claims against Kirkland, it would not be appropriate for this Court to enter a final judgment before the District Court has done so.

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**G. The Matter Shall Be Referred to Mediation**

The Court is aware that prior mediation of this matter before the Hon. Dickran M. Tevrizian (Ret.) did not result in a settlement. Adv. Doc. No. 238 (order appointing mediator). There have been significant developments in the case since the previous mediation. The parties now have the benefit of the jury's findings regarding Kirkland and this Court's findings as to the issues that remain for trial. The narrowing of the issues substantially increases the possibility of successful mediation.

The parties shall meet and confer and select a mediator. No later than **November 13, 2020**, the parties shall submit an order assigning this matter to mediation.

To provide the parties sufficient time to engage in mediation, the Court will continue the Pretrial Conference from December 15, 2020 to **February 9, 2021 at 11:00 a.m.**

**VI. Conclusion**

Based upon the foregoing, the Cross Motions for Summary Judgment filed by the Chapter 7 Trustee and the BC Trust are **GRANTED IN PART** and **DENIED IN PART**. The Court finds that the facts established by the jury trial, and/or the facts as to which there is no genuine dispute, support entry of the following findings:

- 1) The BC Trust holds an allowed secured claim in the amount of \$1,950,613.41.
- 2) The BC Trust is not entitled to any interest on its claim because the Trustee is entitled to avoid the claim as an actually fraudulent transfer pursuant to § 548(a)(1)(A). Notwithstanding such avoidance, the BC Trust is entitled to a claim of \$1,950,613.41 because it has established that it acquired the claim in good faith and for value pursuant to § 548(c).
- 3) The BC Trust's claim **does not** attach to (a) \$3,886,650.83 in proceeds from the Trustee's settlement of avoidance actions or (b) \$1,250,000.00 in proceeds from the Trustee's settlements with Luce Forward and Greenberg Traurig. The BC Trust's claim **does** attach to (a) \$3,615,817.85 in proceeds from a settlement with Robert Geringer and (b) \$104,588.83 in proceeds from the sale of stock in Ice Skating Enterprises and Sidecreek Development.
- 4) The BC Trust is entitled to summary adjudication in its favor on the Trustee's constructively fraudulent transfer claims.
- 5) Neither party is entitled to summary adjudication with respect to the Trustee's equitable subordination claim.

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The Court will prepare and enter appropriate orders.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Unless otherwise indicated, all "Adv. Doc." citations are to Adv. No. 2:12-ap-02424-ER; all "Bankr. Doc." citations are to Bankr. Case No. 2:10-bk-62208-ER; all "District Court Doc." citations are to Case No. 2:18-cv-08317-DSF; and all "Tr." citations are to the transcript of the jury trial conducted by the District Court in Case No. 2:18-cv-08317-DSF that commenced on June 25, 2019. Page citations are to the docket pagination which appears at the top of each page, not to the document's internal pagination.

**Note 2**

Adjudication on the merits was delayed as a result of a motion to compel arbitration brought by John Kirkland (the "Arbitration Motion"). A more detailed procedural history of the Arbitration Motion is set forth in Adv. Doc. No. 409.

**Note 3**

The BC Trust filed four duplicative proofs of claim. The BC Trust has acknowledged that it is entitled to only a single satisfaction on account of its claims and does not seek a duplicative recovery.

**Note 4**

In accordance with the Local Bankruptcy Rules, both parties have filed statements of facts which that party contends are not subject to genuine dispute (the "Statements of UMF"). In response to each Statement of UMF, each opposing party has filed an objection. In the objections, both parties assert that almost all of the facts set forth in

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the opposing party's Statement of UMF are disputed.

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." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). "A party asserting that a fact is genuinely disputed within the context of a motion for summary judgment must cite 'to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations ..., admissions, interrogatory answers, or other materials ...'" Civil Rule 56(c)(1)(A). *Yoo v. Zeta Interactive (In re Blue Glob., LLC)*, 591 B.R. 433, 447 (Bankr. C.D. Cal. 2018) (citing Civil Rule 56(c)(1)(A)). The Court has reviewed the relevant portions of the record as to each fact which a party asserts is disputed, and has determined that many of the disputes are not genuine. For each fact set forth in this section, the Court cites to either the jury trial which establishes the fact, or to the portions of the record demonstrating that the fact is not subject to genuine dispute.

**Note 5**

Pressman was the manager of EPD from 2003 through the end of 2010. Tr. 485:24–486:4 (testimony of Pressman). Keith Pressman, Pressman's son, held the title of president of EPD, but was not meaningfully involved in the management of the company. Tr. 486:8–13 (testimony of Pressman).

**Note 6**

For Payments made by check, the dates given are the date upon which the check was negotiated, not the date upon which Kirkland presented the check. *See Barnhill v. Johnson*, 503 U.S. 393, 399, 112 S. Ct. 1386, 1390, 118 L. Ed. 2d 39 (1992) (holding that a "transfer" under the Bankruptcy Code occurs upon the date a check is honored by the bank).

**Note 7**

At trial, Kirkland testified that the \$150,000 Payment was made pursuant to the Loan Documents but did not elaborate upon whether the Payment was made to EPD or to an EPD affiliate. Tr. 375:17–20. The bank statement offered by Kirkland and the BC Trust to corroborate the payment shows a wire transfer in the amount of \$150,000 from Kirkland's account, but does not specify the identity of the entity or person to whom the transfer was made. Adv. Doc. No. 424-7, Ex. 21. The declaration testimony submitted by Kirkland on August 26, 2020 likewise does not specify the entity or

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person to whom the transfer was made. Adv. Doc. No. 424-3 at ¶ 3 (Kirkland's testimony that on November 8, 2007, he made a Payment of \$150,000 "directly to EPD, or at its direction and for its benefit").

**Note 8**

A given name is used to distinguish Poshow Ann Kirkland from John Kirkland. No disrespect is intended.

**Note 9**

The BC Trust asserts that it did provide consideration for assignment of the Loan Documents, because such assignment furthered the Kirklands' obligation to provide support for their children. There is no merit to the contention that a transfer in furtherance of the Kirklands' pre-existing legal obligation to support their children qualifies as consideration.

**Note 10**

The Trustee's objection to this testimony as hearsay is overruled. First, the Trustee waived any objection by not asserting it at the jury trial. Second, the testimony does not constitute hearsay. A statement is hearsay only if offered to "prove the truth of the matter asserted in the statement." The statement is not offered to prove that EPD filed the Financing Statement in 2007, because there is no dispute that EPD did not file the financing statement in 2007. The statement is offered only to show that Kirkland believed that the Financing Statement had been filed.

**Note 11**

The Trustee objects to this testimony, asserting that Underkoffler's deposition testimony was based on her personal knowledge and was not qualified. The Trustee's objection is overruled. Underkoffler is permitted to elaborate upon and clarify statements she made at her deposition.

**Note 12**

The Trustee's objection that this testimony is not based upon Underkoffler's personal knowledge is overruled. Underkoffler is testifying as to her understanding of the circumstances under which attorney approval for a filing is required. That is within the scope of her personal knowledge as a legal assistant.

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**Note 13**

McKenna Long & Aldridge LLP merged with Luce Forward Hamilton & Scripps LLP as of March 6, 2012. The McKenna Long Settlement released claims against McKenna Long and its predecessor Luce Forward.

**Note 14**

The Trustee did not file a complaint against McKenna Long because a settlement was reached at mediation prior to the Trustee's deadline to file a complaint.

**Note 15**

The term "Remaining Kirkland Claims" is defined in substantially the same way in the McKenna Long Settlement and the Greenberg Traurig Settlement.

**Note 16**

The BC Trust argues that the Trustee has been provided a full and fair opportunity to litigate his claims against the BC Trust, because the Trustee could have argued at the jury trial that Kirkland was both an insider and a fiduciary. The argument is without merit. There is nothing in the District Court's order bifurcating the trial that required the Trustee to present to the jury all his allegations against Kirkland in order to preserve those allegations which were necessary to the Trustee's case against the BC Trust.

**Note 17**

Although commercial tort claims relating to Greenberg Traurig may have been in existence at the time the Security Agreement was executed, the commercial tort claims relating to Luce Forward were not yet in existence.

<b>Party Information</b>
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**Debtor(s):**

EPD Investment Co., LLC

Pro Se

**Defendant(s):**

John C Kirkland, individually

Represented By  
Autumn D Spaeth ESQ  
Lewis R Landau

Poshow Ann Kirkland, individually

Represented By

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Lewis R Landau

Poshow Ann Kirkland, as Trustee of

Represented By  
Lewis R Landau  
Stephen E Hyam

**Plaintiff(s):**

Jason M Rund, Chapter 7 Trustee

Represented By  
Larry W Gabriel  
Michael W Davis  
Corey R Weber

**Trustee(s):**

Jason M Rund (TR)

Represented By  
Corey R Weber  
Robert A Hessling  
Richard K Diamond  
Daniel H Gill  
Michael W Davis  
Steven T Gubner  
Ronald P Abrams

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Adv#: 2:12-02424 Rund, Chapter 7 Trustee v. Kirkland, individually et al

**#2.00** Hearing  
RE: [424] Motion For Summary Judgment (Hyam, Stephen)

fr: 10-14-20

Docket 424

**Tentative Ruling:**

10/27/2020

See Cal. No. 1, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

EPD Investment Co., LLC

Pro Se

**Defendant(s):**

John C Kirkland, individually

Represented By  
Autumn D Spaeth ESQ  
Lewis R Landau

Poshow Ann Kirkland, individually

Represented By  
Lewis R Landau

Poshow Ann Kirkland, as Trustee of

Represented By  
Lewis R Landau  
Stephen E Hyam

**Plaintiff(s):**

Jason M Rund, Chapter 7 Trustee

Represented By  
Larry W Gabriel  
Michael W Davis  
Corey R Weber



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, October 28, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... EPD Investment Co., LLC**

**Chapter 7**

**Trustee(s):**

Jason M Rund (TR)

**Represented By**

Corey R Weber

Robert A Hessling

Richard K Diamond

Daniel H Gill

Michael W Davis

Steven T Gubner

Ronald P Abrams

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 2, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16743 Matthew Francis Daniels**

**Chapter 7**

**#1.00** HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2004 Jeep Grand Cherokee, Vehicle Identification Number: 1J4GW48S14C159523 (with proof of service). (Blackman, Mark)

Docket 9

**Tentative Ruling:**

10/30/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 2, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Matthew Francis Daniels**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Matthew Francis Daniels

Represented By  
Paul C Nguyen

**Trustee(s):**

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 2, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-17684 Jose Maria Valles**

**Chapter 7**

**#2.00** HearingRE: [17] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Toyota Camry, VIN: 4T1BF1FK8HU298478 . (Ith, Sheryl)

Docket 17

**Tentative Ruling:**

10/30/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Movant has established a *prima facie* case that cause exists, and Debtor has not responded with evidence establishing that the property is not declining in value or that Movant is adequately protected.

The subject vehicle has a value of \$8,500 and is encumbered by a perfected security interest in favor of the Movant. Considering Movant's lien, all senior liens against the property, and the estimated costs of sale, there is an equity cushion of \$-4,719.27. There is no equity and there is no evidence that the property is necessary to a reorganization or that the trustee can administer the property for the benefit of creditors. Movant is protected by a 0% equity cushion in the property. The Ninth Circuit has established that an equity cushion of 20% constitutes adequate protection for a secured creditor. Pistole v. Mellor (In re Mellor), 734 F.2d 1396, 1401 (9th Cir. 1984); see Downey Sav. & Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.),

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 2, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Jose Maria Valles**

**Chapter 7**

70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). Because the equity cushion in this case is less than 20%, the Court concludes that Movant's interest in the vehicle is not adequately protected. This is cause to terminate the stay under 11 U.S.C. § 362(d)(1).

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jose Maria Valles

Represented By  
Jasmine Firooz

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-13731 Samuel Antonio Acevedo and Lucy Acevedo**

**Chapter 11**

**#1.00** Hearing  
RE: [144] Post confirmation status conference

fr. 7-22-20

Docket 144

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-1-2020 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01196 Seton Medical Center v. Anesthesia Care Consultants, Inc.

**#2.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01196. Complaint by Seton Medical Center against Anesthesia Care Consultants, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-1-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Anesthesia Care Consultants, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01198 St. Francis Medical Center v. Arthur J. Edelstein, M.D., A Professional

**#3.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01198. Complaint by St. Francis Medical Center against Arthur J. Edelstein, M.D., A Professional Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Arthur J. Edelstein, M.D., A

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01199 St. Vincent Medical Center v. Axiom Anesthesia Group, Inc.

**#4.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01199. Complaint by St. Vincent Medical Center against Axiom Anesthesia Group, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Axiom Anesthesia Group, Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01200 O'Connor Hospital v. Bridge Medical Consultants, Inc.

**#5.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01200. Complaint by O'Connor Hospital against Bridge Medical Consultants, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-27-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Bridge Medical Consultants, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01201 Seton Medical Center v. California Advanced Imaging Medical Associates,

**#6.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01201. Complaint by Seton Medical Center against California Advanced Imaging Medical Associates, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

California Advanced Imaging

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01202 Seton Medical Center v. Fred F. Naraghi, M.D., Inc.

**#7.00** Status HearingRE: [1] Adversary case 2:20-ap-01202. Complaint by Seton Medical Center against Fred F. Naraghi, M.D., Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Fred F. Naraghi, M.D., Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01203 St. Vincent Medical Center v. Harris & Batra Cardiology Medical Group,

**#8.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01203. Complaint by St. Vincent Medical Center against Harris & Batra Cardiology Medical Group, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-22-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Harris & Batra Cardiology Medical

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01204 St. Francis Medical Center v. Hossein Eftekhari MD Inc

**#9.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01204. Complaint by St. Francis Medical Center against Hossein Eftekhari MD Inc. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Hossein Eftekhari MD Inc

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01205 St. Vincent Medical Center v. RehabCare Group of California, LLC

**#10.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01205. Complaint by St. Vincent Medical Center against RehabCare Group of California, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

RehabCare Group of California,

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01206 Seton Medical Center v. Scribner, MD

**Chapter 11**

**#11.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01206. Complaint by Seton Medical Center against Robert G. Scribner, MD. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

Robert G. Scribner, MD

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01207 Seton Medical Center v. Seton Emergency Physicians, Inc.

**#12.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01207. Complaint by Seton Medical Center against Seton Emergency Physicians, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-20**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Seton Emergency Physicians, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01208 St. Vincent Medical Center v. Sun Clinical Laboratories

**#13.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01208. Complaint by St. Vincent Medical Center against Sun Clinical Laboratories. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-15-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Sun Clinical Laboratories

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01209 Verity Health System of California, Inc. v. 360 Management Group, LLC

**#14.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01209. Complaint by Verity Health System of California, Inc. against 360 Management Group, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-22-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

360 Management Group, LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01210 St. Vincent Medical Center v. 360 Support Services

**#15.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01210. Complaint by St. Vincent Medical Center against 360 Support Services. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-30-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

360 Support Services

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01211 Verity Health System of California, Inc. v. 3M Health Information Systems,

**#16.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01211. Complaint by Verity Health System of California, Inc. against 3M Health Information Systems, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-2021 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

3M Health Information Systems,

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01212 St. Vincent Medical Center v. A B C Aguerro's Builders Company, Inc.

**#17.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01212. Complaint by St. Vincent Medical Center against A B C Aguerro's Builders Company, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-22-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

A B C Aguerro's Builders Company,

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01213 St. Francis Medical Center v. A Team Security, Inc.

**#18.00** Status HearingRE: [1] Adversary case 2:20-ap-01213. Complaint by St. Francis Medical Center against A Team Security, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

A Team Security, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01214 St. Francis Medical Center v. ACCO Engineered Systems, Inc.

**#19.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01214. Complaint by St. Francis Medical Center against ACCO Engineered Systems, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

ACCO Engineered Systems, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01215 St. Vincent Medical Center v. Advanced Bionics, LLC

**#20.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01215. Complaint by St. Vincent Medical Center against Advanced Bionics, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-22-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Advanced Bionics, LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01216 St. Vincent Medical Center v. Advanced Cardiothoracic Surgery Medical

**#21.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01216. Complaint by St. Vincent Medical Center against Advanced Cardiothoracic Surgery Medical Group, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Advanced Cardiothoracic Surgery

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01217 Seton Medical Center v. Alevio, LLC

**#22.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01217. Complaint by Seton Medical Center against Alevio, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-30-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Alevio, LLC

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01218 Verity Medical Foundation v. Ramirez, MD

**#23.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01218. Complaint by Verity Medical Foundation against Alfredo F. Ramirez, MD. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-22-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Alfredo F. Ramirez, MD

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01219 St. Francis Medical Center v. Alliance Environmental Group, LLC

**#24.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01219. Complaint by St. Francis Medical Center against Alliance Environmental Group, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Alliance Environmental Group, LLC

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01220 St. Vincent Medical Center v. AmerisourceBergen Corporation

**#25.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01220. Complaint by St. Vincent Medical Center against AmerisourceBergen Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

AmerisourceBergen Corporation

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01221 Seton Medical Center v. AMN Workforce Solutions, LLC

**#26.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01221. Complaint by Seton Medical Center against AMN Workforce Solutions, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-8-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

AMN Workforce Solutions, LLC

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01222 St. Vincent Medical Center v. AOSS Medical Supply, L.L.C.

**#27.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01222. Complaint by St. Vincent Medical Center against AOSS Medical Supply, L.L.C.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

AOSS Medical Supply, L.L.C.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01223 Verity Health System of California, Inc. v. Applied Statistics & Management

**#28.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01223. Complaint by Verity Health System of California, Inc. against Applied Statistics & Management Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-30-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Applied Statistics & Management

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01224 St. Vincent Medical Center v. Ascend Clinical, LLC

**#29.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01224. Complaint by St. Vincent Medical Center against Ascend Clinical, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Ascend Clinical, LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01225 St. Vincent Medical Center v. Atlantic Business Organizations Corp.

**#30.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01225. Complaint by St. Vincent Medical Center against Atlantic Business Organizations Corp.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Atlantic Business Organizations

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01226 St. Francis Medical Center v. Automac Parking, Inc.

**#31.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01226. Complaint by St. Francis Medical Center against Automac Parking, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Automac Parking, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01227 Verity Medical Foundation v. Automatic Data Processing, Inc.

**#32.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01227. Complaint by Verity Medical Foundation against Automatic Data Processing, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-1-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Automatic Data Processing, Inc.

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01228 O'Connor Hospital v. BioFire Diagnostics, LLC

**#33.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01228. Complaint by O'Connor Hospital against BioFire Diagnostics, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

BioFire Diagnostics, LLC

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01229 Seton Medical Center v. Bioventus LLC

**#34.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01229. Complaint by Seton Medical Center against Bioventus LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Bioventus LLC

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01230 Verity Health System of California, Inc. v. Blackbaud, Inc.

**#35.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01230. Complaint by Verity Health System of California, Inc. against Blackbaud, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Blackbaud, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01231 Verity Health System of California, Inc. v. Blue Shield of California

**#36.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01231. Complaint by Verity Health System of California, Inc. against Blue Shield of California. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Blue Shield of California

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01232 St. Vincent Medical Center v. Boston Scientific Corporation

**#37.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01232. Complaint by St. Vincent Medical Center against Boston Scientific Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Boston Scientific Corporation

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01233 Verity Health System of California, Inc. v. Gray

**#38.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01233. Complaint by Verity Health System of California, Inc. against Bryan Lee Gray. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-22-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Bryan Lee Gray

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01234 Verity Health System of California, Inc. v. California Statewide

**#39.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01234. Complaint by Verity Health System of California, Inc. against California Statewide Communities Development Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

California Statewide Communities

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01235 Verity Health System of California, Inc. v. Canadian Travel Nurses

**#40.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01235. Complaint by Verity Health System of California, Inc. against Canadian Travel Nurses. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-3-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Canadian Travel Nurses

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01236 St. Francis Medical Center v. Cardio Medical Consultants Medical Group of

**#41.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01236. Complaint by St. Francis Medical Center against Cardio Medical Consultants Medical Group of Long Beach, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Cardio Medical Consultants Medical

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01237 O'Connor Hospital v. Centinel Spine, LLC

**#42.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01237. Complaint by O'Connor Hospital against Centinel Spine, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Centinel Spine, LLC

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01238 Verity Health System of California, Inc. v. Cerner Health Services Inc.

**#43.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01238. Complaint by Verity Health System of California, Inc. against Cerner Health Services Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Cerner Health Services Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01239 Verity Health System of California, Inc. v. Change Healthcare Engagement

**#44.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01239. Complaint by Verity Health System of California, Inc. against Change Healthcare Engagement Solutions, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 1-5-2021 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Change Healthcare Engagement

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01240 Verity Health System of California, Inc. v. Change Healthcare Technologies,

**#45.00** Status HearingRE: [1] Adversary case 2:20-ap-01240. Complaint by Verity Health System of California, Inc. against Change Healthcare Technologies, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Change Healthcare Technologies,

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01241 O'Connor Hospital v. Chem-Aqua, Inc.

**#46.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01241. Complaint by O'Connor Hospital against Chem-Aqua, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Chem-Aqua, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01242 Verity Health System of California, Inc. v. Cigna Dental Health, Inc.

**#47.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01242. Complaint by Verity Health System of California, Inc. against Cigna Dental Health, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Cigna Dental Health, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01243 Verity Health System of California, Inc. v. Cigna Healthcare, Inc.

**#48.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01243. Complaint by Verity Health System of California, Inc. against Cigna Healthcare, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Cigna Healthcare, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01244 Verity Business Services v. Ciox Health, LLC

**#49.00** Status HearingRE: [1] Adversary case 2:20-ap-01244. Complaint by Verity Business Services against Ciox Health, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Ciox Health, LLC

Pro Se

**Plaintiff(s):**

Verity Business Services

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01245 St. Vincent Medical Center v. Citiguard Inc.

**#50.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01245. Complaint by St. Vincent Medical Center against Citiguard Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-22-20 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Citiguard Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01246 St. Francis Medical Center v. City of Lynwood, California

**#51.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01246. Complaint by St. Francis Medical Center against City of Lynwood, California. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

City of Lynwood, California

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 3, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01247 Verity Health System of California, Inc. v. Clinicomp International, Inc.

**#52.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01247. Complaint by Verity Health System of California, Inc. against Clinicomp International, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-26-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Clinicomp International, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 4, 2020

Hearing Room 1568

10:00 AM

2:18-22144 Hakop Jack Aivazian

Chapter 7

#1.00 APPLICANT: Trustee: Brad D. Krasnoff

Hearing re [160] Trustee's Final Report and Applications for Compensation

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 11-18-20 AT 11:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 4, 2020

Hearing Room 1568

10:00 AM

2:18-22144 Hakop Jack Aivazian

Chapter 7

#2.00 APPLICANT: Attorney for Trustee: DANNING GILL ISRAEL & KRASNOFF LLP  
Hearing re [160] Trustee's Final Report and Applications for Compensation

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 11-18-20 AT 11:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 4, 2020

Hearing Room 1568

10:00 AM

2:18-22144 Hakop Jack Aivazian

Chapter 7

#3.00 APPLICANT: Accountant for Trustee: LEA ACCOUNTANCY

Hearing re [160] Trustee's Final Report and Applications for Compensation

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 11-18-20 AT 11:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 4, 2020

Hearing Room 1568

10:00 AM

2:20-15501 Chineseinvestors.com, Inc.

Chapter 11

#4.00 HearingRE: [193] Motion to Extend Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement Debtor's Motion for Entry of an Order (A) Extending the Exclusivity Periods and (B) Granting Related Relief, with Proof of Service

Docket 193

**Tentative Ruling:**

11/3/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED**.

**Pleadings Filed and Reviewed**

1. Debtor's Motion for Entry of an Order (A) Extending the Exclusivity Periods and (B) Granting Related Relief (the "Motion") [Doc. No. 193]
2. Notice of Hearing on Debtor's Motion for Entry of an Order (A) Extending the Exclusivity Periods and (B) Granting Related Relief [Doc. No. 194]
3. As of the preparation of this tentative ruling, no objection is on file

**I. Facts and Summary of Pleadings**

Debtor and Debtor-in-Possession, Chineseinvestors.com, Inc. (the "Debtor") seeks an extension of the exclusivity periods under which it may file and solicit votes on a Plan of Reorganization (the "Plan"). The Debtor's exclusivity period to file the Plan expired on October 16, 2020. The Debtor's exclusivity period to solicit a vote with respect to the Plan expires on December 15, 2020. The Debtor seeks an order (1) extending the exclusivity period to file the Plan by 120 days, to and including February 13, 2021, and (2) extending the exclusivity period to solicit votes with respect to the Plan by 120 days, to and including April 14, 2021. This is the Debtor's first request for an extension.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 4, 2020

Hearing Room 1568

---

10:00 AM

CONT... **Chineseinvestors.com, Inc.**

**Chapter 11**

The Debtor states that an extension of the exclusivity periods is necessary because of the large number of creditors (over 600) and problems with its cash management system. Declaration of Warren Wang ("Wang Decl.") at ¶¶ 3 & 7-8. The Debtor maintains an integrated cash management system that allows it to collect payments from Chinese nationals through its bank accounts in China, as well as through payment systems such as WeChat Pay and AliPay. *Id.* at ¶ 8. The Debtor has not yet finalized its cash management system, which it avers is integral to its operations, and has filed its second motion seeking to continue using its current cash management system. *Id.* at ¶ 14; *see also* Doc. No. 202. In addition, the Debtor began production of documents requested by the U.S. Trustee, but recently the parties agreed to the appointment of an examiner under § 1104, and the Debtor is now producing further documents to the examiner. *Id.* at ¶¶ 15-17.

The Debtor believes that it is appropriate to extend the deadlines to file the Plan and solicit votes because the examiner has not finished his report and the Debtor is still looking into raising new capital in order to help formulate the Plan. Motion at 8.

## **II. Findings of Fact and Conclusions of Law**

Section 1121(b) gives the Debtor the exclusive right to file a plan during the first 120 days after the date of the order for relief. If the debtor files a plan within the 120-day exclusivity period, §1121(c)(3) provides that exclusivity is extended for an additional 60 days to maintain exclusivity during the plan solicitation period. If the plan has not been accepted by holders of impaired claims before 180 days after the date of the order for relief, then the exclusivity period terminates, unless the debtor has obtained an extension. §1121(c)(3). Section 1121(d) permits the Court to reduce or increase the exclusivity period "for cause." Section 1121 provides the bankruptcy court "maximum flexibility to suit various types of reorganization proceedings." *In re Public Service Company of New Hampshire*, 88 B.R. 521, 534 (Bankr. D.N.H. 1988).

The Court finds that cause exists to extend the exclusivity periods in accordance with the Debtor's request. The Debtor has, so far, made some progress toward reorganization, is cooperating with the examiner, and has timely paid its bills and filed its monthly operating reports. An extension of the exclusivity periods will give the Debtor more time to file the Plan, and an extension does not appear as though it will prejudice creditors.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 4, 2020

Hearing Room 1568

10:00 AM

CONT... **Chineseinvestors.com, Inc.**

**Chapter 11**

The exclusivity period for the Debtor to file the Plan is extended from October 16, 2020 to and including February 13, 2021. The exclusivity period for the Debtor to solicit votes on the Plan is extended from December 15, 2020 to and including April 14, 2021.

**III. Conclusion**

For the reasons set forth above, the Motion is **GRANTED**.

The Debtor shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 4, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16475 Neumedicines, Inc.**

**Chapter 11**

**#5.00** Hearing  
RE: [47] U.S. Trustee Motion to dismiss or convert or appoint a Chapter 11  
Trustee . (Attachments: # 1 COS # 2 BANS)(united states trustee (hy))

Docket 47

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 10-8-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 4, 2020

Hearing Room 1568

11:00 AM

2:19-17841 Soul Hollywood, LLC

Chapter 7

**#100.00** HearingRE: [48] Motion For Sale of Property of the Estate under Section 363(b) - No Fee Chapter 7 Trustee's Motion For Order: (1) Authorizing Sale Of Estate's Right, Title, And Interest In Alcoholic Beverage Control License; (2) Determining That Buyer Is A Good Faith Purchaser; (3) Approving Overbid Procedures; And (4) Waiving The Fourteen (14) Day Stay Prescribed By Rule 6004 Of The Federal Rules Of Bankruptcy Procedure; Memorandum Of Points And Authorities; Declarations Of Howard M. Ehrenberg And Jason B. Kho In Support Thereof, with proof of service, (Wu, Claire)

Docket 48

**Tentative Ruling:**

11/3/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived. The Debtor shall direct potential overbidders, if any, to contact the above-referenced number prior to the hearing.**

For the reasons set forth below, the Sale Motion is **GRANTED**. The Court will conduct the sale auction in accordance with the procedures set forth below.

**Key Sale Terms:**

1. Proposed purchaser: Streamusic Inc.
2. Property for sale: On-Sale General Eating Place Liquor License #47-558177
3. Purchase price: \$65,000
4. Overbids: The initial overbid shall be \$70,000.00. Subsequent overbids shall be in increments of \$1,000.00.

**Pleadings Filed and Reviewed**

1. Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Estate's Right, Title, and Interest in Alcoholic Beverage License; (2) Determining that Buyer

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 4, 2020

Hearing Room 1568

11:00 AM

CONT...

**Soul Hollywood, LLC**

**Chapter 7**

- is a Good Faith Purchaser; (3) Approving Overbid Procedures; and (4) Waiving the Fourteen (14) Day Stay Prescribed by Rule 6004 of the Federal Rules of Bankruptcy Procedure; Memorandum of Points and Authorities; Declarations of Howard M. Ehrenberg and Jason B. Kho in Support Thereof (the "Sale Motion") [Doc. No. 48]
2. Notice of Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Estate's Right, Title, and Interest in Alcoholic Beverage License; (2) Determining that Buyer is a Good Faith Purchaser; (3) Approving Overbid Procedures; and (4) Waiving the Fourteen (14) Day Stay Prescribed by Rule 6004 of the Federal Rules of Bankruptcy Procedure [Doc. No. 49]
  3. Notice of Sale of Estate Property [Doc. No. 50]

## **I. Facts and Summary of Pleadings**

Soul Hollywood, LLC (the "Debtor") commenced a voluntary chapter 7 petition on July 5, 2019. The Debtor owned and operated a restaurant at the time this petition was filed. One of the assets scheduled by the Debtor is an On-Sale General Eating Place Liquor License #47-558177 (the "Liquor License"). On November 19, 2020, the Court approved the sale of the Liquor License for \$90,000; however, the original buyer failed to fully fund the escrow account and refused to execute cancellation of the purchase agreement. *See* Doc. Nos. 34 & 44. On July 21, 2020, the Court terminated escrow and found the original buyer to be in default. *See* Doc. No 44.

Howard Ehrenberg, the chapter 7 trustee (the "Trustee"), again seeks to sell the Liquor License. This time around, the purchaser is Streamusic Inc. (the "Purchaser") for the sum of \$65,000, or its chosen nominee. The Trustee avers that the reduced purchase price is because the value of liquor licenses during the COVID-19 pandemic has drastically decreased. In addition, the Trustee is confident that the price is the highest and best he can obtain because his broker recently sold two licenses for the same amount. The Trustee further states that he is not aware of any liens encumbering the Liquor License. The sale is subject to overbids.

## **II. Findings and Conclusions**

### **A. The Proposed Sale is Approved**

Section 363(b) permits the Trustee to sell estate property out of the ordinary

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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CONT... **Soul Hollywood, LLC**

**Chapter 7**

course of business, subject to court approval. The Trustee must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19–20 (9th Cir. B.A.P. 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19–20.

The Trustee has demonstrated sufficient business justification for the sale, which will generate receipts of approximately \$65,000 for the benefit of the estate. Therefore, the sale is in accordance with the Trustee's statutory obligation to liquidate the estate's assets.

**B. Auction Procedures**

In the event that any qualified overbidders emerge, the Trustee seeks approval of overbid procedures. The Court approves the overbidding procedures as laid out in the Sale Motion, which include: (1) any person interesting in submitting an overbid must attend the hearing on the Sale Motion or be represented by an individual with authority to participate in the process; (2) the initial overbid shall be \$70,000.00 with subsequent overbids to be in increments of \$1,000.00; (3) overbidders, except for the Purchaser, must deliver a deposit to the Trustee in the amount of \$6,500.00 by wire prior to the hearing on the Sale Motion (the "Deposit"); (4) overbidders must purchase the Liquor License on the same terms and conditions as the Purchaser; (5) the Deposit of the overbidder shall be forfeited if such party is thereafter unable to complete the purchase of the Liquor License within 30 days of entry of the order confirming the sale; and (6) in the event that the successful overbidder cannot timely complete the purchase, the Trustee shall be authorized to proceed with the sale to the next highest overbidder.

**C. Good Faith Purchaser**

Section 363(m) protects the rights of good faith purchasers in a § 363(b) sale, mandating that "reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale under such authorization to an entity that purchased or leased such property in good faith . . ." *See In re Ewell*, 958 F.2d 276, 279 (9th Cir. 1992). Courts traditionally define a "good faith purchaser" as one who buys the property in "good faith" and for "value." *In re Kings Inn, Ltd.*, 37 B.R. 239, 243 (9th Cir. B.A.P. 1984). Lack of good faith can be found through "fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders." *In re Ewell*, 958 F.2d at 281; *In re Suchy*, 786 F.2d 900,

**United States Bankruptcy Court  
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Judge Ernest Robles, Presiding  
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**CONT... Soul Hollywood, LLC**  
902 (9th Cir. 1985).

**Chapter 7**

Having reviewed the declarations submitted by the Trustee and Jason B. Kho, the broker who marketed the Liquor License, the Court finds that the Purchaser is a good faith purchaser entitled to the protections of § 363(m). In the event that an overbidder prevails at the auction, the Court will take testimony from such overbidder to determine whether §363(m) protections are warranted.

### **III. Conclusion**

Based upon the foregoing, the Sale Motion is **GRANTED**.

The Trustee is directed to lodge a proposed order, incorporating this tentative ruling by reference, within 7 days of the hearing. Notwithstanding Bankruptcy Rule 6004(h), the order approving the sale shall take immediate effect upon entry.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Soul Hollywood, LLC

Represented By  
David S Hagen

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Claire K Wu

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12770 Wise Choice Plumbing and Rooter, Inc.**

**Chapter 7**

**#1.00** HearingRE: [37] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Chevrolet Silverado 3500H; VIN# 1GB4KYCY5HF115153 .

Docket 37

**Tentative Ruling:**

11/5/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Movant has established a *prima facie* case that cause exists, and Debtor has not responded with evidence establishing that the property is not declining in value or that Movant is adequately protected.

The subject vehicle has a value of \$27,125 (*see* Exhibit C to the Motion) and is encumbered by a perfected security interest in favor of the Movant. Considering Movant's lien, all senior liens against the property, and the estimated costs of sale, there is an equity cushion of \$20,175.76. There is some, but very little equity and there is no evidence that the property is necessary to a reorganization or that the trustee can administer the property for the benefit of creditors. Movant is protected by a 25.6% equity cushion in the property. The Ninth Circuit has established that an equity cushion of 20% constitutes adequate protection for a secured creditor. *Pistole v. Mellor (In re Mellor)*, 734 F.2d 1396, 1401 (9th Cir. 1984); *see Downey Sav. &*

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
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**Hearing Room 1568**

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**CONT... Wise Choice Plumbing and Rooter, Inc.**

**Chapter 7**

Loan Ass'n v. Helionetics, Inc. (In re Helionetics, Inc.), 70 B.R. 433, 440 (Bankr. C.D. Cal. 1987) (holding that a 20.4% equity cushion was sufficient to protect the creditor's interest in its collateral). Adequate protection, however, is a flexible concept and it must protect against the continued loss of value of the asset. Because this is not an appreciating asset and payments are not being made, the Court concludes that Movant's interest in the vehicle is not adequately protected. This is cause to terminate the stay under 11 U.S.C. § 362(d)(1).

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Wise Choice Plumbing and Rooter,

Represented By  
Paul M Brent

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Carolyn A Dye

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14808 SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**

**#2.00** HearingRE: [82] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 Cadillac Escalade; VIN# 1GYS4KKJ0LR128439 .

Docket 82

**Tentative Ruling:**

11/5/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend

**United States Bankruptcy Court  
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Los Angeles  
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**CONT... SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**

to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

SCHREINER'S FINE SAUSAGES,

Represented By  
Robert B Rosenstein



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01248 Verity Business Services v. Collecto, Inc.

**#1.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01248. Complaint by Verity Business Services against Collecto, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Collecto, Inc.

Pro Se

**Plaintiff(s):**

Verity Business Services

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01249 Verity Holdings, LLC v. Colliers International Greater Los Angeles, Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
#2.00      Status Hearing  
RE: [1] Adversary case 2:20-ap-01249. Complaint by Verity Holdings, LLC  
against Colliers International Greater Los Angeles, Inc.. (14 (Recovery of  
money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 TA 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Colliers International Greater Los

Pro Se

**Plaintiff(s):**

Verity Holdings, LLC

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01250      Verity Business Services v. Computer Credit, Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#3.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01250. Complaint by Verity Business Services  
against Computer Credit, Inc.. (14 (Recovery of money/property - other))  
(Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Computer Credit, Inc.

Pro Se

**Plaintiff(s):**

Verity Business Services

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01251      St. Francis Medical Center v. Cope Health Solutions

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#4.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01251. Complaint by St. Francis Medical Center against Cope Health Solutions. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Cope Health Solutions

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
**Adv#: 2:20-01252 Verity Health System of California, Inc. v. Crawford Career Consulting**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#5.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01252. Complaint by Verity Health System of California, Inc. against Crawford Career Consulting Corp.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-1-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Crawford Career Consulting Corp.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01253      St. Vincent Medical Center v. Cross Country Healthcare Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#6.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01253. Complaint by St. Vincent Medical Center against Cross Country Healthcare Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Cross Country Healthcare Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01254      Verity Medical Foundation v. CSI Medical Group

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
#7.00      Status Hearing  
RE: [1] Adversary case 2:20-ap-01254. Complaint by Verity Medical Foundation against CSI Medical Group. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

CSI Medical Group

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01255      Seton Medical Center v. Daly City Pathology Medical Group, Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#8.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01255. Complaint by Seton Medical Center against Daly City Pathology Medical Group, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Daly City Pathology Medical Group,

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01256      St. Francis Medical Center v. Lemay, M.D., Ph.D., Inc.



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#9.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01256. Complaint by St. Francis Medical Center against Daniel R. Lemay, M.D., Ph.D., Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Daniel R. Lemay, M.D., Ph.D., Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
**Adv#: 2:20-01257 Verity Health System of California, Inc. v. Data Archiving and Retrieval**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#10.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01257. Complaint by Verity Health System of California, Inc. against Data Archiving and Retrieval Technologies, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-7-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Data Archiving and Retrieval

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01258      Verity Health System of California, Inc. v. DataSite LLC

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#11.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01258. Complaint by Verity Health System of California, Inc. against DataSite LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

DataSite LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01259      St. Francis Medical Center v. Datex-Ohmeda, Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#12.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01259. Complaint by St. Francis Medical Center against Datex-Ohmeda, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Datex-Ohmeda, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01260      St. Francis Medical Center v. Friedberg, M.D., Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#13.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01260. Complaint by St. Francis Medical Center against David Friedberg, M.D., Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

David Friedberg, M.D., Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
**Adv#: 2:20-01261 Verity Health System of California, Inc. v. Delta Dental of California**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#14.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01261. Complaint by Verity Health System of California, Inc. against Delta Dental of California. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Delta Dental of California

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01262      Seton Medical Center v. Diagnostica Stago Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
#15.00      Status Hearing  
RE: [1] Adversary case 2:20-ap-01262. Complaint by Seton Medical Center  
against Diagnostica Stago Inc.. (14 (Recovery of money/property - other))  
(Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Diagnostica Stago Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01263      O'Connor Hospital v. Diasorin Inc.

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#16.00**      Status Hearing  
RE: [1] Adversary case 2:20-ap-01263. Complaint by O'Connor Hospital against Diasorin Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Diasorin Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01264      Seton Medical Center v. Dignity Health

**Chapter 11**

**#17.00**      Status Hearing



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01264. Complaint by Seton Medical Center against Dignity Health. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

Dignity Health

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01265      Verity Health System of California, Inc. v. Discovery Economics, Inc.

**#18.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01265. Complaint by Verity Health System of California, Inc. against Discovery Economics, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Discovery Economics, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01266      St. Francis Medical Center v. DVA Renal Healthcare, Inc.

**#19.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01266. Complaint by St. Francis Medical Center  
against DVA Renal Healthcare, Inc.. (14 (Recovery of money/property - other))  
(Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

DVA Renal Healthcare, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc. Chapter 11**  
Adv#: 2:20-01267      St. Vincent Medical Center v. Dynamics Orthotics & Prosthetics, Inc.

**#20.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01267. Complaint by St. Vincent Medical Center against Dynamics Orthotics & Prosthetics, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-5-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

Dynamics Orthotics & Prosthetics,

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01268      Verity Health System of California, Inc. v. DYSEC 360, Corp.

**#21.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01268. Complaint by Verity Health System of California, Inc. against DYSEC 360, Corp.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 2-2-21 at 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

DYSEC 360, Corp.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc. Chapter 11**  
Adv#: 2:20-01270 Verity Medical Foundation v. East Bay Dermatology Medical Group, Inc.

**#22.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01270. Complaint by Verity Medical Foundation against East Bay Dermatology Medical Group, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-20-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

East Bay Dermatology Medical

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01271      Verity Health System of California, Inc. v. ECRI Institute

**#23.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01271. Complaint by Verity Health System of California, Inc. against ECRI Institute. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-5-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

ECRI Institute

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01272      Verity Medical Foundation v. Omron

**Chapter 11**

**#24.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01272. Complaint by Verity Medical Foundation  
against Edward Omron. (14 (Recovery of money/property - other)) (Moyron,  
Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Edward Omron

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01273      St. Vincent Medical Center v. Elsevier Inc.

**Chapter 11**

**#25.00 Status Hearing**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01273. Complaint by St. Vincent Medical Center  
against Elsevier Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Elsevier Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01274      St. Vincent Medical Center v. Emerald Textiles, LLC

**#26.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01274. Complaint by St. Vincent Medical Center  
against Emerald Textiles, LLC. (14 (Recovery of money/property - other))  
(Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-5-2021 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Emerald Textiles, LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01275      Verity Health System of California, Inc. v. Emmi Solutions LLC

**#27.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01275. Complaint by Verity Health System of California, Inc. against Emmi Solutions LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Emmi Solutions LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01276      Verity Holdings, LLC v. Environmental Service Partners, Inc.

**#28.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01276. Complaint by Verity Holdings, LLC  
against Environmental Service Partners, Inc.. (14 (Recovery of money/property -  
other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 at 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

Environmental Service Partners, Inc.

Pro Se

**Plaintiff(s):**

Verity Holdings, LLC

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01277      Verity Health System of California, Inc. v. EQ2 LLC

**#29.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01277. Complaint by Verity Health System of California, Inc. against EQ2 LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-11-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

EQ2 LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01278      Verity Health System of California, Inc. v. Equinix, Inc.

**#30.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01278. Complaint by Verity Health System of California, Inc. against Equinix, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Equinix, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01279      O'Connor Hospital v. ER Express, LLC

**Chapter 11**

**#31.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01279. Complaint by O'Connor Hospital against ER Express, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

ER Express, LLC

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01280      Seton Medical Center v. Erbe USA, Inc.

**#32.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01280. Complaint by Seton Medical Center  
against Erbe USA, Inc.. (14 (Recovery of money/property - other)) (Moyron,  
Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Erbe USA, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc. Chapter 11**  
Adv#: 2:20-01281 Verity Health System of California, Inc. v. Escoffier Culinary, Inc.

**#33.00 Status Hearing**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01281. Complaint by Verity Health System of California, Inc. against Escoffier Culinary, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Escoffier Culinary, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01282      St. Vincent Medical Center v. Eurofins VRL Los Angeles, LLC

**#34.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01282. Complaint by St. Vincent Medical Center against Eurofins VRL Los Angeles, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-15-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Eurofins VRL Los Angeles, LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01283      St. Vincent Medical Center v. Finished Floors, Inc.

**#35.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01283. Complaint by St. Vincent Medical Center  
against Finished Floors, Inc.. (14 (Recovery of money/property - other))  
(Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Finished Floors, Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01284      St. Francis Medical Center v. Fresenius Medical Care Holdings, Inc.

**#36.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01284. Complaint by St. Francis Medical Center against Fresenius Medical Care Holdings, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-19-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Fresenius Medical Care Holdings,

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01285      O'Connor Hospital v. FS Medical Technology

**#37.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01285. Complaint by O'Connor Hospital against FS Medical Technology. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

FS Medical Technology

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01286      St. Francis Medical Center v. FUJIFILM Sonosite, Inc.

**#38.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01286. Complaint by St. Francis Medical Center  
against FUJIFILM Sonosite, Inc.. (14 (Recovery of money/property - other))  
(Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

FUJIFILM Sonosite, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01287      Verity Medical Foundation v. GCX Corporation

**#39.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01287. Complaint by Verity Medical Foundation against GCX Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

GCX Corporation

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01288      Verity Medical Foundation v. GE Healthcare IITS USA Corp.

**#40.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01288. Complaint by Verity Medical Foundation  
against GE Healthcare IITS USA Corp.. (14 (Recovery of money/property -  
other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-22-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

GE Healthcare IITS USA Corp.

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc. Chapter 11**  
Adv#: 2:20-01289 Verity Health System of California, Inc. v. GE Medical Systems Information

**#41.00 Status Hearing**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01289. Complaint by Verity Health System of California, Inc. against GE Medical Systems Information Technologies, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

GE Medical Systems Information

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**      **Chapter 11**  
Adv#: 2:20-01290      Seton Medical Center v. Glaukos Corporation

**#42.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01290. Complaint by Seton Medical Center  
against Glaukos Corporation. (14 (Recovery of money/property - other))  
(Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Glaukos Corporation

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc. Chapter 11**  
Adv#: 2:20-01291 Verity Health System of California, Inc. v. Global Healthcare Exchange,

**#43.00 Status Hearing**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
RE: [1] Adversary case 2:20-ap-01291. Complaint by Verity Health System of California, Inc. against Global Healthcare Exchange, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

11/9/2020

Order entered. Status Conference **CONTINUED to February 2, 2021 at 10:00 a.m.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Global Healthcare Exchange, LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01292      Seton Medical Center v. Golden Gate Perfusion, Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**

**#44.00**      Status Hearing  
RE: [1] Adversary case 2:20-ap-01292. Complaint by Seton Medical Center against Golden Gate Perfusion, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Golden Gate Perfusion, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01293      Verity Health System of California, Inc. v. Granite Telecommunications,

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
#45.00      Status Hearing  
RE: [1] Adversary case 2:20-ap-01293. Complaint by Verity Health System of California, Inc. against Granite Telecommunications, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-27-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Granite Telecommunications, LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01294      Verity Health System of California, Inc. v. Grant Thornton LLP

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#46.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01294. Complaint by Verity Health System of California, Inc. against Grant Thornton LLP. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Grant Thornton LLP

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01295      St. Francis Medical Center v. Greg Owens Construction, Inc

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#47.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01295. Complaint by St. Francis Medical Center against Greg Owens Construction, Inc. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Greg Owens Construction, Inc

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01296      St. Francis Medical Center v. Harry H. Joh Construction Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#48.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01296. Complaint by St. Francis Medical Center against Harry H. Joh Construction Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-5-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Harry H. Joh Construction Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01297      Verity Medical Foundation v. HD Ultrasound, LLC

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Verity Health System of California, Inc.**      **Chapter 11**  
**#49.00**      **Status Hearing**  
RE: [1] Adversary case 2:20-ap-01297. Complaint by Verity Medical Foundation against HD Ultrasound, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket      1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

HD Ultrasound, LLC

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01298      Verity Business Services v. Healthcare Cost Solutions, Inc.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, November 10, 2020

Hearing Room 1568

10:00 AM

CONT... Verity Health System of California, Inc. Chapter 11  
#50.00 Status Hearing RE: [1] Adversary case 2:20-ap-01298. Complaint by Verity Business Services against Healthcare Cost Solutions, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**Tentative Ruling:**

11/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the Joint Status Report submitted by the parties, the Court  
**HEREBY ORDERS AS FOLLOWS:**

- 1) Defendant's objection to the Bankruptcy Court's entry of final judgment is **OVERRULED**. On August 28, 2020, the Court issued a Scheduling Order [Doc. No. 3], which Plaintiff served upon Defendant on September 2, 2020. Doc. No. 3. The Scheduling Order provides in relevant part:

Any party contesting this Court's authority to enter a final order or judgment in this matter must file and serve a written objection no later than fourteen days prior to the date set for the first status conference. *See Wellness Int'l Network, Ltd. v. Sharif*, 135 S. Ct. 1932 (2015). Failure to raise the issue in accordance with the requirements set forth above will be deemed consent to this court's authority to enter a final

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, November 10, 2020

Hearing Room 1568

10:00 AM

CONT... Verity Health System of California, Inc.  
order or judgment.

Chapter 11

Scheduling Order at ¶ 5.

In the Joint Status Report [Doc. No. 5] filed on November 9, 2020, Defendant checked the box indicating that it does not consent to entry of a final judgment by the Bankruptcy Court. However, Defendant did not file a written objection to the Bankruptcy Court's entry of final judgment, as required by the Scheduling Order. Therefore, Defendant is deemed to consent to the Bankruptcy Court's authority to enter a final judgment.

- 2) The litigation dates previously ordered shall continue to apply, subject to an extension for good cause shown.
- 3) Informal discussions among the parties have resulted in settlements in a number of the preference actions filed in the Debtors' jointly-administered bankruptcy cases. Therefore, the Court will not order this matter to formal mediation at the present time. (Should the parties nonetheless desire the matter to be assigned to formal mediation at this time, the parties may submit an order so providing.) A continued Status Conference is set for **February 2, 2021 at 10:00 a.m.** If no settlement has been reached by the continued Status Conference, the Court will consider ordering the matter to formal mediation. A Joint Status Report, which shall discuss the status of settlement negotiations, shall be filed no later than fourteen days prior to the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 10, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

Healthcare Cost Solutions, Inc.

Pro Se

**Plaintiff(s):**

Verity Business Services

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12770 Wise Choice Plumbing and Rooter, Inc.**

**Chapter 7**

**#1.00** HearingRE: [40] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Chevrolet Express Cargo Van VIN No.1GCWGAF6G1186560 with Proof of Service. (Delmotte, Joseph)

Docket 40

**Tentative Ruling:**

11/13/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Wise Choice Plumbing and Rooter, Inc.**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Wise Choice Plumbing and Rooter,

Represented By  
Paul M Brent

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Carolyn A Dye

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16883 Michael Anthony McClain and Tanya McClain**

**Chapter 7**

**#2.00** HearingRE: [18] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: insurance policy proceeds . (Prout, Shanen)

Docket 18

**Tentative Ruling:**

11/13/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2) . The failure of the debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The motion is granted pursuant to 11 U.S.C. § 362(d)(1) to permit movant to proceed under applicable non-bankruptcy law to enforce its remedies to proceed to final judgment in the non-bankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or estate property. The claim is insured. Movant may seek recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or estate property.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the Unites States Code. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Anthony McClain and Tanya McClain**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Michael Anthony McClain

Represented By  
Timothy McFarlin

**Joint Debtor(s):**

Tanya McClain

Represented By  
Timothy McFarlin

**Trustee(s):**

John P Pringle (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-18702 Cecilio Aparicio, Jr. and Jennifer M. Aparicio**

**Chapter 7**

**#3.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Lexus RX 350L . (Martinez, Kirsten)

Docket 11

**Tentative Ruling:**

11/13/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Cecilio Aparicio, Jr. and Jennifer M. Aparicio Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Cecilio Aparicio Jr.

Represented By  
Frank X Ruggier

**Joint Debtor(s):**

Jennifer M. Aparicio

Represented By  
Frank X Ruggier

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01399 Elissa D. Miller, solely in her capacity as chapte v. Old World Precast, Inc., a

**#1.00** Status Conference to monitor consummation of the settlementPre-Trial Conference RE: [1] Adversary case 2:18-ap-01399. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against Old World Precast, Inc., a California corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Avoidance and Recovery of Fraudulent Transfers, (3) Preservation of Preferential and Fraudulent Transfers, and (4) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Lev, Daniel)

fr: 10-15-19; 3-10-20; 6-16-20; 9-15-20

Docket 1

**Tentative Ruling:**

11/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Chapter 7 Trustee (the "Trustee") reached a settlement in principal (the "Settlement") with Old World Precast, Inc. ("Defendant") in February 2020. An initial Status Conference to monitor the consummation of the Settlement was set for June 16, 2020 (the "Settlement Status Conference"). As a result of the impact of the COVID-19 pandemic on Defendant's business, the Court continued the Settlement Status Conference to September 15, 2020.

On September 8, 2020, the Court continued the Settlement Status Conference to November 17, 2020 upon the Trustee's request. The Court stated that if Defendant had not executed the Settlement by the November 17 Settlement Status Conference, the Court would restore the action to the trial calendar and require Defendant to defend against the action.

Defendant has not executed the Settlement. The Trustee requests a further

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

continuance of the Settlement Status Conference, arguing that prosecution of this action would not be an economical use of the estate's resources.

Notwithstanding the Trustee's request, the Court finds it appropriate to restore this action to the trial calendar. In the Court's experience, the existence of litigation deadlines is often the most effective means of facilitating a settlement.

Based upon the foregoing, the Court **HEREBY ORDERS** that the following litigation deadlines shall apply:

- 1) The last day to disclose expert witnesses and expert witness reports is **2/23/2021**.
- 2) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **3/25/2021**.
- 3) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **4/13/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- 4) The last day for dispositive motions to be heard is **4/20/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- 5) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **4/24/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- 6) A Pretrial Conference is set for **5/11/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- 7) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**QUIGG LA11, LLC**

**Chapter 7**

the preparation of the Pretrial Stipulation:

- a) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - b) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
  - c) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - d) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- 8) Trial is set for the week of **5/24/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

The Court will prepare and enter a Scheduling Order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear,**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

**please first contact opposing counsel to inform them of your intention to do so.**

Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

Old World Precast, Inc., a California

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev  
Asa S Hami  
Jessica Vogel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-25740 QUIGG LA11, LLC**

**Chapter 7**

Adv#: 2:18-01407 Elissa D. Miller, solely in her capacity as chapte v. HD Supply Construction

**#2.00** Status Conference to monitor consummation of the settlementPre-Trial Conference RE: [1] Adversary case 2:18-ap-01407. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against HD Supply Construction Supply Group, Inc., a Delaware corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

FR. 10-15-19; 3-10-20; 6-16-20; 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-21 AT 10:00 A.M.**

**Tentative Ruling:**

11/16/2020

Order entered. Status Conference **CONTINUED** to **February 9, 2021 at 10:00 a.m.**

**Party Information**

**Debtor(s):**

QUIGG LA11, LLC

Represented By  
David M Reeder

**Defendant(s):**

HD Supply Construction Supply

Pro Se

**Plaintiff(s):**

Elissa D. Miller, solely in her

Represented By  
Asa S Hami  
Daniel A Lev

**Trustee(s):**

Elissa Miller (TR)

Represented By  
Daniel A Lev

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... QUIGG LA11, LLC**

**Chapter 7**

Asa S Hami  
Jessica Vogel



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11795 Alana Gershfeld**

**Chapter 7**

Adv#: 2:19-01052 Dye v. Khasin et al

**#3.00** STATUS CONFERENCE TO MONITOR CONSUMMATION OF THE SETTLEMENT RE: [1] Adversary case 2:19-ap-01052. Complaint by Carolyn A Dye against Maria Khasin, Larry A. Khasin, M & L Living Trust. (Charge To Estate). Complaint: (1) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. §§ 544 And 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; And,(3) Automatic Preservation Of Avoided Transfer Pursuant To 11 U.S.C. § 551 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Gonzalez, Rosendo)

FR. 1-14-20; FR 7-16-19; 4-14-20; 7-14-20; 10-13-20

Docket 1

**Tentative Ruling:**

11/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Chapter 7 Trustee (the "Trustee") and Defendants reached a settlement in principle; however, Defendants have not executed the settlement agreement. Defendants' counsel has requested that Defendants be provided additional time to execute the settlement agreement as a result of a family emergency. The Trustee asserts that Defendants' failure to execute the settlement agreement indicates that Defendants are not serious about settling the action, and requests that the matter be restored to the trial calendar.

In the Court's experience, the existence of litigation deadlines is often the most effective means of facilitating a settlement. Therefore, the Court will restore this matter to the trial calendar as requested by the Trustee.

Based upon the foregoing, the Court **HEREBY ORDERS** that the following

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Alana Gershfeld**

**Chapter 7**

litigation deadlines shall apply:

- 1) The last day to disclose expert witnesses and expert witness reports is **2/23/2021**.
- 2) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **3/25/2021**.
- 3) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **4/13/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- 4) The last day for dispositive motions to be heard is **4/20/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- 5) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **4/24/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- 6) A Pretrial Conference is set for **5/11/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- 7) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - a) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - b) When preparing the Pretrial Stipulation, all parties shall stipulate to the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

CONT...

**Alana Gershfeld**

**Chapter 7**

admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

- c) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - d) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- 8) Trial is set for the week of **5/24/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

The Court will prepare and enter a Scheduling Order.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

CONT... **Alana Gershfeld**

**Chapter 7**

**Debtor(s):**

Alana Gershfeld

Represented By  
Alla Tenina

**Defendant(s):**

Maria Khasin

Pro Se

Larry A. Khasin

Pro Se

M & L Living Trust

Pro Se

**Plaintiff(s):**

Carolyn A Dye

Represented By  
Rosendo Gonzalez

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Rosendo Gonzalez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01034 Howard M. Ehrenberg, Chapter 7 Trustee v. Juwono

**#4.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01034. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Sugio Juwono. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20; fr 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-16-20**

**Tentative Ruling:**

11/16/2020

Order entered. Status Conference **VACATED**.

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

Sugio Juwono

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

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10:00 AM

**CONT... Raymond Express International,LLC**

**Chapter 7**

Steven Werth  
Mark S Horoupian

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01035 Howard M. Ehrenberg, Chapter 7 Trustee v. Lee

**#5.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01035. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Heidi Lee. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20; 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-16-20**

**Tentative Ruling:**

11/16/2020

Order entered. Status Conference **VACATED**.

<b>Party Information</b>
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**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

Heidi Lee

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston

**United States Bankruptcy Court  
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**CONT... Raymond Express International,LLC**

**Chapter 7**

Steven Werth  
Mark S Horoupian



**United States Bankruptcy Court  
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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01036 Howard M. Ehrenberg, Chapter 7 Trustee v. Leem

**#6.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01036. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Alvin Leem. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 6-16-20; 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-16-20**

**Tentative Ruling:**

11/16/2020

Order entered. Status Conference **VACATED**.

<b>Party Information</b>
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**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

Alvin Leem

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston

**United States Bankruptcy Court  
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**CONT... Raymond Express International,LLC**

**Chapter 7**

Steven Werth  
Mark S Horoupian

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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01037 Howard M. Ehrenberg, Chapter 7 Trustee v. Park

**#7.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01037. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Justin Park. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20; 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-16\*20**

**Tentative Ruling:**

11/16/2020

Order entered. Status Conference **VACATED**.

<b>Party Information</b>
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**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

Justin Park

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston

**United States Bankruptcy Court  
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**CONT... Raymond Express International,LLC**

**Chapter 7**

Steven Werth  
Mark S Horoupian

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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01038 Howard M. Ehrenberg, Chapter 7 Trustee v. Poon

**#8.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01038. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against David Poon. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20; 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-16-20**

**Tentative Ruling:**

11/16/2020

Order entered. Status Conference **VACATED**.

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

David Poon

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston

**United States Bankruptcy Court  
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**CONT... Raymond Express International,LLC**

**Chapter 7**

Steven Werth  
Mark S Horoupian

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10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

Adv#: 2:20-01039 Howard M. Ehrenberg, Chapter 7 Trustee v. Wong

**#9.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01039. Complaint by Howard M. Ehrenberg, Chapter 7 Trustee against Anthony Wong. (Charge To Estate). Complaint for Avoidance and Recovery of Liens Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Horoupian, Mark)

FR. 5-12-20; 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-16-20**

**Tentative Ruling:**

11/16/2020

Order entered. Status Conference **VACATED**.

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Defendant(s):**

Anthony Wong

Pro Se

**Plaintiff(s):**

Howard M. Ehrenberg, Chapter 7

Represented By  
Steven Werth  
Mark S Horoupian

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston

**United States Bankruptcy Court  
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**CONT... Raymond Express International,LLC**

**Chapter 7**

Steven Werth  
Mark S Horoupian



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10:00 AM

**2:18-24265 Neilla M Cenci**

**Chapter 7**

Adv#: 2:19-01065 BALL C M, Inc. v. Cenci et al

**#10.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01065. Complaint by BALL C M, Inc. against Neilla M Cenci. 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)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Slates, Ronald)

FR. 5-14-19; 8-13-19; 1-14-20| 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-21 AT 10:00 A.M.**

**Tentative Ruling:**

11/16/2020

Order entered. Status Conference **CONTINUED to February 9, 2021 at 10:00 a.m.**

<b>Party Information</b>
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**Debtor(s):**

Neilla M Cenci

Represented By  
James R Selth

**Defendant(s):**

Neilla M Cenci

Pro Se

DOES 1 through 100, inclusive

Pro Se

**Plaintiff(s):**

BALL C M, Inc.

Represented By  
Ronald P Slates

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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10:00 AM

**2:19-17841 Soul Hollywood, LLC**

**Chapter 7**

Adv#: 2:20-01269 Ehrenberg, Trustee v. Carmi et al

**#11.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01269. Complaint by Howard M Ehrenberg, Trustee against Eliot Carmi, Carmi Flavor & Fragrance, Inc., a California corporation. (\$350.00 Fee Charge To Estate). Complaint For: (1) Declaratory Relief; (2) Avoidance Of Preferential Transfers; (3) Avoidance Of Fraudulent Transfers; (4) Avoidance Of Unauthorized Post-Petition Transfers; (5) Recovery Of Avoided Transfers; (6) Turnover Of Property; (7) Contempt For Violation Of Automatic Stay; (8) Disallowance Of Claim; And (9) Subordination Of Claim Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(81 (Subordination of claim or interest)),(91 (Declaratory judgment))(Wu, Claire)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-21 AT 10:00 A.M.**

**Tentative Ruling:**

11/16/2020

Order entered. Status Conference **CONTINUED to February 9, 2021 at 10:00 a.m.**

<b>Party Information</b>
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**Debtor(s):**

Soul Hollywood, LLC

Represented By  
David S Hagen

**Defendant(s):**

Eliot Carmi

Pro Se

Carmi Flavor & Fragrance, Inc., a

Pro Se

**Plaintiff(s):**

Howard M Ehrenberg, Trustee

Represented By  
Claire K Wu

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**CONT... Soul Hollywood, LLC**

**Chapter 7**

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Claire K Wu

**United States Bankruptcy Court  
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Hearing Room 1568

10:00 AM

**2:20-12958 Dikran Stepan Tcheubjian**  
Adv#: 2:20-01139 Krasnoff v. Sepilian et al

**Chapter 7**

**#12.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01139. Complaint by Brad D. Krasnoff against Micheline Sepilian, Dikran Stepan Tcheubjian, Haikanouche Tcheubjian. (Charge To Estate). -Trustee's Complaint to: (1) Avoid, Preserve and Recover Preferential Transfer; (2) Avoid, Preserve and Recover Fraudulent Transfer; and (3) Disallow Exemption 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)) (Singh, Sonia)

FR. 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Dikran Stepan Tcheubjian	Represented By Eileen Keusseyan
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**Defendant(s):**

Micheline Sepilian	Pro Se
Dikran Stepan Tcheubjian	Pro Se
Haikanouche Tcheubjian	Pro Se

**Joint Debtor(s):**

Haikanouche Tcheubjian	Represented By Eileen Keusseyan
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**Plaintiff(s):**

Brad D. Krasnoff	Represented By
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**United States Bankruptcy Court  
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**CONT... Dikran Stepan Tcheubjian**

**Chapter 7**

Sonia Singh

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Sonia Singh  
Zev Shechtman

**United States Bankruptcy Court  
Central District of California  
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10:00 AM

**2:20-12958 Dikran Stepan Tcheubjian**

**Chapter 7**

Adv#: 2:20-01140 Krasnoff v. Zeitounian et al

**#13.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01140. Complaint by Brad D. Krasnoff against Christine Molino Zeitounian, Dikran Stepan Tcheubjian, Haikanouche Tcheubjian. (Charge To Estate). -Trustee's Complaint to: (1) Avoid, Preserve and Recover Preferential Transfer; (2) Avoid, Preserve and Recover Fraudulent Transfer; and (3) Disallow Exemption 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)) (Singh, Sonia)

fr. 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-12-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Dikran Stepan Tcheubjian

Represented By  
Eileen Keusseyan

**Defendant(s):**

Christine Molino Zeitounian

Pro Se

Dikran Stepan Tcheubjian

Pro Se

Haikanouche Tcheubjian

Pro Se

**Joint Debtor(s):**

Haikanouche Tcheubjian

Represented By  
Eileen Keusseyan

**United States Bankruptcy Court  
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Los Angeles  
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10:00 AM

**CONT... Dikran Stepan Tcheubjian**

**Chapter 7**

**Plaintiff(s):**

Brad D. Krasnoff

Represented By  
Sonia Singh

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Sonia Singh  
Zev Shechtman

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-13652 John Robert Cashman**

**Chapter 7**

Adv#: 2:20-01180 KURTZ v. Lao

**#14.00** Status HearingRE: [1] Adversary case 2:20-ap-01180. Complaint by HEIDE KURTZ against Xiaohong Lao. (\$350.00 Fee Charge To Estate). (with Exhibit A) (Attachments: # 1 Adversary Cover Sheet) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Pagay, Carmela)

Docket 1

**Tentative Ruling:**

11/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the Joint Status Report submitted by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Defendant has timely demanded a jury trial in this avoidance action, has not filed a proof of claim against the estate, and consents to having the jury trial conducted by the Bankruptcy Court. Under these circumstances, Defendant is entitled to a jury trial. *See Langenkamp v. Culp*, 498 U.S. 42, 45 (1990) ("If a party does *not* submit a claim against the bankruptcy estate, however, the trustee can recover ... transfers only by filing what amounts to a legal action to recover a monetary transfer. In those circumstances the ... defendant is entitled to a jury trial."). Because both Plaintiff and Defendant have consented to the Bankruptcy Court's entry of final judgment, the jury trial will be conducted by the Bankruptcy Court. *See* Bankruptcy Rule 9015(b) (stating that the Bankruptcy Court may conduct a jury trial only with the consent of all parties).
- 2) Pursuant to Defendants' request, the litigation deadlines previously ordered shall be extended, as follows:
  - a) The last day to amend pleadings and/or join other parties is **12/31/2020**.



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**John Robert Cashman**

**Chapter 7**

- b) The last day to disclose expert witnesses and expert witness reports is **10/26/2021**.
- c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **11/25/2021**.
- d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **12/14/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
- e) The last day for dispositive motions to be heard is **12/21/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **12/25/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
- g) A Pretrial Conference is set for **1/11/2022 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party

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**John Robert Cashman**

**Chapter 7**

cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1.

The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.

iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(2)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.

iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(2)(h)(ii), and shall be filed by the deadline specified in ¶(2)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.

i) Trial is set for the week of **1/24/2022**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

3) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel

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**CONT... John Robert Cashman**

**Chapter 7**

Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

John Robert Cashman

Represented By  
Daniel King

**Defendant(s):**

Xiaohong Lao

Pro Se

**Plaintiff(s):**

HEIDE KURTZ

Represented By  
Timothy J Yoo  
Carmela Pagay

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

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Los Angeles  
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**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14414 Edward Woojin Park**

**Chapter 7**

Adv#: 2:20-01194 Stewart Title Guaranty Company, a Texas corporatio v. Park

**#15.00** Status Hearing RE: [1] Adversary case 2:20-ap-01194. Complaint by Stewart Title Guaranty Company, a Texas corporation against Edward Woojin Park. (d),(e)),(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)) (Poteet, Lawrence)

Docket 1

**Tentative Ruling:**

11/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the Joint Status Report filed by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **12/17/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **3/30/2021**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **4/29/2021**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **5/18/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-

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CONT...

**Edward Woojin Park**

**Chapter 7**

calendar.)

- e) The last day for dispositive motions to be heard is **5/25/2021**. (If the motion cutoff date is not available for self-calendar, the deadline for dispositive motions to be heard is the next closest date which is available for self-calendar.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **5/29/2021**. (If the non-expert discovery cutoff date is not available for self-calendar, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendar.)
- g) A Pretrial Conference is set for **6/15/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
- h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
  - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
  - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and

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Los Angeles  
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10:00 AM

CONT...

**Edward Woojin Park**

**Chapter 7**

- may subject the moving party to sanctions.
- iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections to the admissibility of an exhibit.
  - iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.
- i) Trial is set for the week of **6/28/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.
- 2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Edward Woojin Park

Represented By  
Ji Yoon Kim

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**Chapter 7**

**Defendant(s):**

Edward Woojin Park

Pro Se

**Plaintiff(s):**

Stewart Title Guaranty Company, a

Represented By  
Lawrence J Poteet

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

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**2:20-14552 Khurram Mohammed**

**Chapter 7**

Adv#: 2:20-01197 SV Ventures, LLC v. Mohammed et al

**#16.00** Status HearingRE: [1] Adversary case 2:20-ap-01197. Complaint by SV Ventures, LLC against Khurram Mohammed. 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)) (Slates, Ronald)

Docket 1

**Tentative Ruling:**

11/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Clerk of the Court entered Defendant's default on October 15, 2020. Doc. No. 10. Plaintiff requests 120–180 days to submit a Motion for Default Judgment.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) Plaintiff shall submit a Motion for Default Judgment (the "Motion") no later than **March 12, 2021**. The Motion shall be filed on a negative-notice basis, pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).
- 2) All litigation dates and deadlines previously ordered by the Court are **VACATED**.
- 3) A continued Status Conference shall be held on **April 13, 2021 at 10:00 a.m.** Plaintiff shall file a Unilateral Status Report by no later than fourteen days prior to the hearing. In the event default judgment has been entered, the continued Status Conference will go off calendar.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you



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**CONT... Khurram Mohammed Chapter 7**

intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Khurram Mohammed	Pro Se
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**Defendant(s):**

DOES 1 through 10, inclusive	Pro Se
Khurram Mohammed	Pro Se

**Plaintiff(s):**

SV Ventures, LLC	Represented By Ronald P Slates
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**Trustee(s):**

Elissa Miller (TR)	Pro Se
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**2:20-14552 Khurram Mohammed**

**Chapter 7**

Adv#: 2:20-01347 Ahmed v. Mohammed et al

**#17.00** Status HearingRE: [1] Adversary case 2:20-ap-01347. Complaint by Asma Ahmed against Khurram Mohammed. 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)) (Gorginian, Sevan)

Docket 1

**Tentative Ruling:**

11/16/2020

See Cal. No. 18, below, incorporated in full by reference.

<b>Party Information</b>
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**Debtor(s):**

Khurram Mohammed	Pro Se
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**Defendant(s):**

Khurram Mohammed	Pro Se
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DOES 1 through 5, Inclusive	Pro Se
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**Plaintiff(s):**

Asma Ahmed	Represented By Sevan Gorginian
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**Trustee(s):**

Elissa Miller (TR)	Pro Se
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**United States Bankruptcy Court  
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**2:20-14552 Khurram Mohammed**

**Chapter 7**

Adv#: 2:20-01347 Ahmed v. Mohammed et al

**#18.00** HearingRE: [15] Motion for Default Judgment against Defendant Khurram Mohammed, with Proof of Service

Docket 15

**Tentative Ruling:**

11/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion for Default Judgment is **GRANTED**.

**Pleadings Filed and Reviewed:**

- 1) Plaintiff's Motion for Default Judgment Under Local Bankruptcy Rule 7055-1 [Doc. No. 15] (the "Motion")
  - a) Request for Judicial Notice in Support of Motion for Default Judgment Under Local Bankruptcy Rule 7055-1 [Doc. No. 16]
  - b) Notice of Hearing on Plaintiff's Motion for Default Judgment [Doc. No. 17]
- 2) No opposition is on file

**I. Facts and Summary of Pleadings**

Khurram Mohammed ("Defendant") filed a voluntary Chapter 7 petition on May 18, 2020. On August 27, 2020, Asma Ahmed ("Plaintiff") filed a dischargeability complaint (the "Complaint") against Defendant, asserting claims under § 523(a)(2)(A), (a)(2)(B), (a)(4), and (a)(6). On October 8, 2020, the Clerk of the Court entered Defendant's default. Plaintiff now moves for entry of default judgment. No opposition to the Motion is on file.

**II. Findings and Conclusions**

Once default has been entered, the well-pleaded factual allegations of the

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**Khurram Mohammed**

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complaint are taken as true. *Cripps v. Life Ins. Co. of North America*, 980 F.2d 1261, 1267 (9th Cir.1992). Based upon the Complaint's well-pleaded allegations and the evidence submitted in support of the Motion, the Court finds that Plaintiff is entitled to entry of default judgment.

Through the Complaint and the evidence submitted in support of the Motion, Plaintiff has established the following facts:

- 1) On May 4, 2017, Defendant contacted Plaintiff through Facebook to solicit a business partnership.
- 2) Plaintiff and Defendant discussed possible business partnerships during July 2017. Throughout these conversations, Defendant represented that he was a successful entertainment show promoter who routinely worked with prominent Bollywood actors and actresses. Defendant further represented that he had been involved in a number of financially successful business ventures.
- 3) Based on Defendant's representations, Plaintiff agreed to invest \$50,000 in furtherance of a business partnership to co-produce a radio show entitled "From Bollywood to Hollywood Hot & Spicy Rakhi Sawant."
- 4) Plaintiff and Defendant arranged to meet so that Plaintiff could sign an investment contract pertaining to the radio show. Defendant insist that Plaintiff bring to the meeting a cashier's check, made payable to Defendant personally, in the amount of \$50,000. Defendant stated that an attorney would be present at the contract signing to address Plaintiff's questions and concerns.
- 5) Plaintiff agreed to meet Defendant in San Jose to sign the contract. Plaintiff arrived in San Jose on September 16, 2017. Defendant picked up Plaintiff from the airport and took Plaintiff to a restaurant. The attorney that Defendant had promised would be present was not at the restaurant. Plaintiff was apprehensive and did not give Defendant the \$50,000 cashier's check.
- 6) Defendant drove Plaintiff to her hotel and helped Plaintiff carry her bags to her room. Plaintiff went to the restroom while Defendant was waiting in the hotel room to receive a call from Defendant's attorney. Upon Plaintiff's return, Defendant abruptly informed Plaintiff that the attorney was unavailable and quickly left the hotel room.
- 7) Plaintiff returned home the next day. While unpacking, Plaintiff discovered that the \$50,000 cashier's check was missing. Defendant was the last person in possession of the bag containing the cashier's check.
- 8) Plaintiff contacted the Chicago radio station that Defendant had claimed was going to air the radio show "From Bollywood to Hollywood." Plaintiff was

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**Khurram Mohammed**

**Chapter 7**

informed that the radio station did not have a contract with Defendant to air the radio show.

- 9) When soliciting Plaintiff's involvement in the proposed business venture, Defendant represented that he was president of a company called Awaaz Production, Inc. ("Awaaz"). Upon further investigation, Plaintiff discovered that Awaaz had ceased operations in 2016.

**Section 523(a)(2)(A)**

Section 523(a)(2)(A) provides: "A discharge under section 727 ... of this title does not discharge an individual debtor from any debt for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition."

To prevail on a § 523(a)(2)(A) claim on the grounds of false pretenses or false representation, a creditor must prove that:

- 1) the debtor made the 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.

*Ghomeshi v. Sabban (In re Sabban)*, 600 F.3d 1219, 1222 (9th Cir. 2010).

Here, Plaintiff would not have arranged to meet Defendant in San Jose absent Defendant's false representations that he had a contract to produce the radio show "From Bollywood to Hollywood," that he was a successful entertainment show promoter, and that he was the president of Awaaz's. Defendant made these false representations deliberately, to lure Plaintiff into meeting with him so that Defendant could steal the cashier's check. Defendant's false representations proximately led to Plaintiff's loss, since absent the representations, Plaintiff would not have agreed to meet with Defendant and Defendant would not have had the opportunity to steal the check absent.

Plaintiff is entitled to default judgment against Defendant pursuant to § 523(a)(2)(A).

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**Section 523(a)(2)(B)**

Section 523(a)(2)(B) excepts from discharge indebtedness obtained through use of a statement in writing:

- 1) that is materially false;
- 2) respecting the debtor's or an insider's financial condition;
- 3) on which the creditor to whom the debtor is liable for such money, property, services, or credit reasonably relied; and
- 4) that the debtor caused to be made or published with intent to deceive....

§ 523(a)(2)(B).

To prevail upon a claim under § 523(a)(2)(B), a creditor must satisfy, by a preponderance of the evidence, the following requirements:

- 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 relied,
- 6) that the creditor's reliance was reasonable,
- 7) that damage proximately resulted from the representation.

*In re Candland*, 90 F.3d 1466, 1469 (9th Cir. 1996), as amended (Oct. 2, 1996).

The requirements are similar to those imposed by § 523(a)(2)(A), except that the creditor must make a heightened showing in two respects: (1) the representation at issue must be *materially* false (as opposed to simply false), and (2) the creditor's reliance must be *reasonable* (as opposed to justifiable).

A statement is "materially false if it includes information which is 'substantially inaccurate' and is of the type that would affect the creditor's decision making process. To except a debt from discharge, the creditor must show not only that the statements are inaccurate, but also that they contain important and substantial untruths." *Candland*, 90 F.3d at 1470.

Here, Defendant falsely represented to Plaintiff that he routinely engaged in financially successful business ventures. Defendant made these false representations to lure Plaintiff into meeting with Defendant, so that Defendant would have the opportunity to steal the cashier's check. As discussed above, Plaintiff would not have agreed to meet Defendant absent the false representations. The false representations

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**Chapter 7**

were the proximate cause of Plaintiff's loss, because Defendant would not have had the opportunity to meet with Plaintiff and steal the check absent the representations. Plaintiff is entitled to default judgment against Defendant under § 523(a)(2)(B).

**Section 523(a)(4)**

Section 523(a)(4) excepts from discharge any debt arising on account of "larceny." Within the context of §523(a)(4), "larceny" means the "'felonious taking of another's personal property with intent to convert it or deprive the owner of the same.'" *Ormsby v. First Am. Title Co. of Nevada (In re Ormsby)*, 591 F.3d 1199, 1205 (9th Cir. 2010).

Here, Defendant stole the \$50,000 cashier's check from Plaintiff's luggage while Plaintiff was in the restroom. Plaintiff is entitled to default judgment against Defendant under § 523(a)(4).

**Section 523(a)(6)**

"Section 523(a)(6) excepts from discharge debts arising from a debtor's 'willful and malicious' injury to another person or to the property of another. The 'willful' and 'malicious' requirements are conjunctive and subject to separate analysis." *Plyam v. Precision Development, LLC (In re Plyam)*, 530 B.R. 456, 463 (9th Cir. B.A.P. 2015) (internal citations omitted).

An injury is "willful" when "a debtor harbors 'either subjective intent to harm, or a subjective belief that harm is substantially certain.'" The injury must be deliberate or intentional, 'not merely a deliberate or intentional act that leads to injury.'" *Id.* at 463 (internal citations omitted). When determining intent, there is a presumption that the debtor knows the natural consequences of his actions. *Ormsby v. First Am. Title Co. of Nevada (In re Ormsby)*, 591 F.3d 1199, 1206 (9th Cir. 2010). An injury is "malicious" if it "involves '(1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse.'" *Carrillo v. Su (In re Su)*, 290 F.3d 1140, 1146-47 (9th Cir. 2002) (internal citations omitted). "Within the plain meaning of this definition, it is the wrongful act that must be committed intentionally rather than the injury itself." *Jett v. Sicroff (In re Sicroff)*, 401 F.3d 1101, 1106 (9th Cir. 2005).

In addition, the injury-producing conduct must be tortious in order to be excepted from discharge under §523(a)(6). *Lockerby v. Sierra*, 535 F.3d 1038, 1040 (9th Cir. 2008). "[C]onduct is not tortious under § 523(a)(6) simply because injury is intended or 'substantially likely to occur,' but rather is only tortious if it constitutes a tort under state law." *Id.* at 1041.

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CONT... **Khurram Mohammed**

**Chapter 7**

Defendant willfully injured Plaintiff by stealing the cashier's check. Defendant's subjective intent to inflict harm is established by the elaborate series of false statements Defendant made to Plaintiff in order to arrange the meeting that provided Defendant the opportunity to steal the check. Defendant's theft of the check was malicious, as it was an intentional and wrongful act that caused injury.

Plaintiff is entitled to default judgment against Defendant pursuant to § 523(a)(6).

**III. Conclusion**

Based upon the foregoing, the Motion is **GRANTED**. Within seven days of the hearing, Plaintiff shall submit (1) an order granting the Motion, which incorporates this tentative ruling by reference and (2) a judgment of non-dischargeability. (Pursuant to Civil Rule 58, which provides that "every judgment ... must be set out in a separate document," both an order and a judgment must be submitted.)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Khurram Mohammed	Pro Se
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**Defendant(s):**

Khurram Mohammed	Pro Se
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DOES 1 through 5, Inclusive	Pro Se
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**Plaintiff(s):**

Asma Ahmed	Represented By Sevan Gorginian
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**Chapter 7**

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
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**2:20-15842 Sheldon Williams**

**Chapter 7**

Adv#: 2:20-01620 Wescom Credit Union v. Williams

**#19.00** Status Hearing RE: [1] Adversary case 2:20-ap-01620. Complaint by Wescom Credit Union against Sheldon Williams. willful and malicious injury)) (Rocha, Karel)

Docket 1

**Tentative Ruling:**

11/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the Joint Status Report filed by the parties, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) The litigation deadlines previously ordered shall continue to apply, as follows:
  - a) The last day to amend pleadings and/or join other parties is **12/17/2020**.
  - b) The last day to disclose expert witnesses and expert witness reports is **3/30/2021**.
  - c) The last day to disclose rebuttal expert witnesses and rebuttal expert witness reports is **4/29/2021**.
  - d) The last date to complete discovery relating to expert witnesses (e.g., depositions of expert witnesses), including hearings on motions related to expert discovery, is **5/18/2021**. (For contemplated hearings on motions related to expert discovery, it is counsel's responsibility to check the Judge's self-calendaring dates, posted on the Court's website. If the expert discovery cutoff date falls on a date when the court is closed or that is not available for self-calendaring, the deadline for hearings on expert discovery motions is the next closest date which is available for self-calendaring.)
  - e) The last day for dispositive motions to be heard is **5/25/2021**. (If the motion cutoff date is not available for self-calendaring, the deadline for

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Los Angeles  
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**Sheldon Williams**

**Chapter 7**

- dispositive motions to be heard is the next closest date which is available for self-calendaring.)
- f) The last day to complete discovery (except as to experts), including hearings on discovery motions, is **5/29/2021**. (If the non-expert discovery cutoff date is not available for self-calendaring, the deadline for non-expert discovery motions to be heard is the next closest date which is available for self-calendaring.)
  - g) A Pretrial Conference is set for **6/15/2021 at 11:00 a.m.** By no later than fourteen days prior to the Pretrial Conference, the parties must submit a Joint Pretrial Stipulation via the Court's Lodged Order Upload (LOU) system. Submission via LOU allows the Court to edit the Joint Pretrial Stipulation, if necessary. Parties should consult the Court Manual, section 4, for information about LOU.
  - h) In addition to the procedures set forth in Local Bankruptcy Rule 7016-1(b), the following procedures govern the conduct of the Pretrial Conference and the preparation of the Pretrial Stipulation:
    - i) By no later than thirty days prior to the Pretrial Conference, the parties must exchange copies of all exhibits which each party intends to introduce into evidence (other than exhibits to be used solely for impeachment or rebuttal).
    - ii) When preparing the Pretrial Stipulation, all parties shall stipulate to the admissibility of exhibits whenever possible. In the event any party cannot stipulate to the admissibility of an exhibit, that party must file a Motion in Limine which clearly identifies each exhibit alleged to be inadmissible and/or prejudicial. The moving party must set the Motion in Limine for hearing at the same time as the Pretrial Conference; notice and service of the Motion shall be governed by LBR 9013-1. The Motion in Limine must contain a statement of the specific prejudice that will be suffered by the moving party if the Motion is not granted. The Motion must be supported by a memorandum of points and authorities containing citations to the applicable Federal Rules of Evidence, relevant caselaw, and other legal authority. Blanket or boilerplate evidentiary objections not accompanied by detailed supporting argument are prohibited, will be summarily overruled, and may subject the moving party to sanctions.
    - iii) The failure of a party to file a Motion in Limine complying with the requirements of ¶(1)(h)(ii) shall be deemed a waiver of any objections

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**Sheldon Williams**

**Chapter 7**

to the admissibility of an exhibit.

iv) Motions in Limine seeking to exclude testimony to be offered by any witness shall comply with the requirements set forth in ¶(1)(h)(ii), and shall be filed by the deadline specified in ¶(1)(h)(ii). The failure of a party to file a Motion in Limine shall be deemed a waiver of any objections to the admissibility of a witness's testimony.

i) Trial is set for the week of **6/28/2021**. The trial day commences at 9:00 a.m. The exact date of the trial will be set at the Pretrial Conference. Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

2) The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

The Court will prepare and enter a Scheduling Order. Plaintiff shall submit the order assigning the matter to mediation.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Sheldon Williams

Represented By  
Christopher D Cantore

**Defendant(s):**

Sheldon Williams

Pro Se

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**CONT... Sheldon Williams**

**Chapter 7**

**Plaintiff(s):**

Wescom Credit Union

Represented By  
Karel G Rocha

**Trustee(s):**

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court  
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**2:18-17353 Maria G Gallarza-Dominguez**

**Chapter 11**

**#20.00** Post confirmation status conference

fr. 11-5-19; 2-12-19; 2-19-20; 6-30-20; 10-6-2020

Docket 98

**\*\*\* VACATED \*\*\* REASON: ORDER GRANTING MOTION TO  
CLOSE CASE ENTERED 10-20-20**

**Tentative Ruling:**

6/29/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than two days before the hearing. The cost for persons representing themselves has been waived through August 31, 2020.**

For the reasons set forth below, a continued Post-Confirmation Status Conference shall take place on **October 6, 2020 at 10:00 a.m.**

**Pleadings Filed and Reviewed:**

- 1) Debtors-In-Possession's Post Confirmation Report on Status of Reorganization [sic] [Doc. No. 121] (the "Second Post-Confirmation Status Report")

**I. Facts and Summary of Pleadings**

On November 14, 2019, the Court entered an *Order Confirming Debtor's Chapter 11 Plan of Reorganization* [Doc. No. 103]. This is the second Post-Confirmation Status Conference. The Debtor asserts that she is current on all payments required under the Plan and foresees that she will continue making payments without issue. The Debtor claims that the preparation and submission of a motion for final decree has been hindered by the COVID-19 pandemic, among other personal reasons. She anticipates filing a final decree motion within the next 90 days.

As of the posting of this tentative ruling, no response or objection to the Second Post-Confirmation Status Report is on file.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

CONT... **Maria G Gallarza-Dominguez**

**Chapter 11**

**II. Findings and Conclusions**

No appearances required. A continued Post-Confirmation Status Conference shall be held **October 6, 2020, at 10:00 a.m.** A Post-Confirmation Status Report must be submitted by no later than fourteen days prior to the hearing. The Debtor must file and serve a motion for a final decree such that the motion is heard prior to the date of the continued Status Conference. If a favorable order on the motion for a final decree is entered, the continued Status Conference will be vacated.

The Debtor shall submit an order setting the continued Status Conference within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than two days before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Maria G Gallarza-Dominguez

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01559 ST. VINCENT MEDICAL CENTER, a California nonprofit v. BLUE

**#21.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01559. Complaint by ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, O'Connor Hospital, a California nonprofit benefit corporation, Saint Louise Regional Hospital, a California nonprofit public benefit corporation against Blue Shield of California Promise Health Plan, a California corporation. (\$350.00 Fee Charge To Estate). /Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, and Damages for Violation of the Automatic Stay (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Rule 7026-1 Notice # 3 Exhibit Exhibit A-1 # 4 Exhibit Exhibit A-2 # 5 Exhibit Exhibit B # 6 Exhibit Exhibit C # 7 Exhibit Exhibit D # 8 Exhibit Exhibit E # 9 Exhibit Exhibit F # 10 Exhibit Exhibit G # 11 Exhibit Exhibit H) Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (11 (Recovery of money/property - 542 turnover of property)), (14 (Recovery of money/property - other)) (Kahn, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

CONT... Verity Health System of California, Inc.

**Chapter 11**

Kerry L Duffy

**Defendant(s):**

BLUE SHIELD OF CALIFORNIA Pro Se

**Plaintiff(s):**

ST. VINCENT MEDICAL Represented By  
Steven J Kahn

Seton Medical Center, a California Represented By  
Steven J Kahn

O'Connor Hospital, a California Represented By  
Steven J Kahn

Saint Louise Regional Hospital, a Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01575 St. Vincent Medical Center, a California nonprofit v. California Physicians'

**#22.00 Status Hearing**

RE: [1] Adversary case 2:20-ap-01575. Complaint by St. Vincent Medical Center, a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, O'Connor Hospital, a California nonprofit public benefit corporation, Saint Louise Regional Hospital, a California nonprofit public benefit corporation against California Physicians' Service, a California nonprofit public benefit corporation. (\$350.00 Fee Charge To Estate). /Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, and Damages for Violation of the Automatic Stay (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Rule 7026-1 Notice # 3 Exhibit Exhibit A-1 # 4 Exhibit Exhibit A-2 # 5 Exhibit Exhibit B # 6 Exhibit Exhibit C-1 # 7 Exhibit Exhibit C-2 # 8 Exhibit Exhibit D # 9 Exhibit Exhibit E-1 # 10 Exhibit Exhibit E-2 # 11 Exhibit Exhibit F # 12 Exhibit Exhibit G-1 # 13 Exhibit Exhibit G-2 # 14 Exhibit Exhibit H) Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (11 (Recovery of money/property - 542 turnover of property)), (14 (Recovery of money/property - other)) (Kahn, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

California Physicians' Service, a Pro Se

**Plaintiff(s):**

St. Vincent Medical Center, a Represented By  
Steven J Kahn

Seton Medical Center, a California Represented By  
Steven J Kahn

O'Connor Hospital, a California Represented By  
Steven J Kahn

Saint Louise Regional Hospital, a Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01616 Official Committee of Unsecured Creditors of Verit v. Integrity Healthcare,

**#23.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01616. Complaint by Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al. against Integrity Healthcare, LLC, John Doe Individuals 1 50, And John Doe Companies 1 50. (91 (Declaratory judgment)) (Behrens, James)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-5-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Integrity Healthcare, LLC, John Doe

Pro Se

**Plaintiff(s):**

Official Committee of Unsecured

Represented By

James Cornell Behrens

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-18597 Base Architecture Planning & Engr Inc.**

**Chapter 7**

Adv#: 2:20-01005 Gonzalez v. Anderson

**#100.00** Pre-Trial Conference RE: [1] Adversary case 2:20-ap-01005. Complaint by Rosendo Gonzalez against Michael H. Anderson. (Charge To Estate). Complaint: (1) To Avoid Fraudulent Transfers Pursuant To 11 U.S.C. §§ 544 and 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; and, (3) Automatic Preservation of Avoided Transfer Pursuant To 11 U.S.C. § 551 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Gonzalez, Rosendo)

Docket 1

**Tentative Ruling:**

11/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On April 28, 2020, the Court entered a Scheduling Order [Doc. No. 15] finding that Defendant is entitled to a jury trial in this fraudulent transfer action. As a result of the COVID-19 pandemic, it is not feasible for the Court to conduct a jury trial during the week of November 30, 2020, as previously ordered.

On July 17, 2020, the Court entered an order assigning this matter to mediation. Doc. No. 18. The record does not reflect whether this matter has been mediated. The Court will not try this matter until the parties have completed at least one day of mediation.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Pretrial Conference is set for February 9, 2021 at 11:00 a.m.**
- 2) No later than fourteen days prior to the continued Pretrial Conference, the parties shall submit a Status Report discussing the results of the mediation.**

The Court will prepare and enter an order setting the continued Pretrial Conference.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Base Architecture Planning & Engr Inc.**

**Chapter 7**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Base Architecture Planning & Engr

Represented By  
M. Jonathan Hayes

**Defendant(s):**

Michael H. Anderson

Pro Se

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Rosendo Gonzalez

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Rosendo Gonzalez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01387 Mastan, Chapter 7 Trustee v. Bank of Hope et al

**#101.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01387. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of Hope, Jason Young Cho. (Charge To Estate).

Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 6-16-20; 8-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-21 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of Hope

Pro Se

Jason Young Cho

Pro Se

Youngduk Duk Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

Adv#: 2:18-01260 Amin v. Emein

**#102.00** Pre-Trial Conference  
RE: [21] Amended Complaint 2nd Amended by Michael N Berke on behalf of Joseph Amin against Kami Emein

fr: 7-16-19, 9-10-19; 1-14-20; 5-12-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-21 AT 11:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Defendant(s):**

Kami Emein

Represented By  
TJ Fox

**Plaintiff(s):**

Joseph Amin

Represented By  
Michael N Berke

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01111 Danny's Silver Jewelry Inc., a California cor v. Zendedel

**#103.00** Pre-Trial Conference  
RE: [1] Adversary case 2:19-ap-01111. Complaint by Danny's Silver Jewelry Inc., a California corporation, dba Danny's Silver, Inc., dba Danny's Silver & Gold against Bahram Zendedel. 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)) (Tabibi, Nico)

fr: 3-10-20; 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Danny's Silver Jewelry Inc., a

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, November 17, 2020

Hearing Room 1568

11:00 AM

**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#104.00** Pre-Trial Conference

RE: [29] **Second Amended** Complaint Objecting to Discharge Pursuant to 11 USC 523 (a)2(A) and (6) by Michael N Berke on behalf of Miguel Hernandez Cruz against Shamim Ahemmed. (Berke, Michael)

Docket 29

\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 11:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Represented By  
Lawrence R Fieselman  
Julie J Villalobos

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, November 17, 2020

Hearing Room 1568

11:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#105.00** Pre-Trial Conference  
RE: [10] **Counterclaim** by Gregory Tardaguila against Ann Tardaguila as Trustee of the Tardaguila Living Trust dated 07-16-1999, Ann Tardaguila (Altholz, Andrew)

Docket 10

\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE 1-12-21 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Represented By  
Andrew P Altholz

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01001 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#106.00 Pre-Trial Conference**

RE: [1] Adversary case 2:20-ap-01001. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, St Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company against Kali P. Chaudhuri, M.D., an individual, Strategic Global Management, Inc., a California corporation, KPC Healthcare Holdings, Inc., a California Corporation, KPC Health Plan Holdings, Inc., a California Corporation, KPC Healthcare, Inc., a Nevada Corporation, KPC Global Management, LLC, a California Limited Liability Company. (Charge To Estate). Complaint for Breach of Contract, Promissory Fraud, and Tortious Breach of Contract (Breach of Implied Covenant of Good Faith and Fair Dealing) Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Maizel, Samuel)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-3-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Nicholas A Koffroth  
Rosa A Shirley

**Defendant(s):**

Kali P. Chaudhuri, M.D., an	Pro Se
Strategic Global Management, Inc.,	Pro Se
KPC Healthcare Holdings, Inc., a	Pro Se
KPC Health Plan Holdings, Inc., a	Pro Se
KPC Healthcare, Inc., a Nevada	Pro Se
KPC Global Management, LLC, a	Pro Se
Does 1 through 500	Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF	Represented By Samuel R Maizel Tania M Moyron
ST. VINCENT MEDICAL	Represented By Samuel R Maizel Tania M Moyron
St Vincent Dialysis Center, Inc., a	Represented By Samuel R Maizel Tania M Moyron
ST. FRANCIS MEDICAL	Represented By Samuel R Maizel Tania M Moyron
Seton Medical Center, a California	Represented By Samuel R Maizel Tania M Moyron
Verity Holdings, LLC, a California	Represented By Samuel R Maizel Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**2:20-14485 Michael Stuart Brown**

**Chapter 11**

**#107.00** Hearing  
RE: [79] Motion to Modify Order re Motion in Individual Chapter 11 Case to Authorize Debtor-in-Possession to Employ General Counsel

Docket 79

**Tentative Ruling:**

11/16/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED**. The court will enter an amended employment order striking the 45-day provision at issue.

**Pleadings Filed and Reviewed**

- 1) Notice of Motion and Motion in Individual Chapter 11 Case for Order Authorizing Debtor-in-Possession to Employ General Bankruptcy Counsel and to File Interim Fee Applications Using Procedure in LBR 9013-1(o) (the "Employment Application") [Doc. No. 16]
- 2) Order Re Motion in Individual Chapter 11 Case to Authorize Debtor-in-Possession to Employ General Counsel (the "Employment Order") [Doc. No. 27]
- 3) Notice of Motion and Motion to Modify Order Re Motion in Individual Chapter 11 Case to Authorize Debtor-in-Possession to Employ General Counsel (the "Motion") [Doc. No. 79]
- 4) Request for Judicial Notice in Support of Motion to Modify Order Re Motion in Individual Chapter 11 Case to Authorize Debtor-in-Possession to Employ General Counsel [Doc. No. 80]
- 5) Debtor's Opposition to Motion by U.S. Trustee to Modify Order Re Motion in Individual Chapter 11 Case to Authorize Debtor-in-Possession to Employ General Counsel; Declaration of Michael Chekian, Esq. (the "Opposition") [Doc. No. 91]



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**CONT...**

**Michael Stuart Brown**

**Chapter 11**

- 6) United States Trustee's Reply to Debtor's Opposition to Motion by U.S. Trustee to Modify Order Re Motion in Individual Chapter 11 Case to Authorize Debtor-in-Possession to Employ General Counsel (the "Reply") [Doc. No. 92]

### **I. Facts and Summary of Pleadings**

Michael Stuart Brown (the "Debtor") commenced a voluntary chapter 11 petition on May 15, 2020. On May 29, 2020, the Debtor filed the Employment Application to retain Michael Chekian, Esq. (the "Debtor's Counsel") as his general counsel. The motion was unopposed and the Debtor filed a declaration stating that no party requested a hearing on the motion on June 16, 2020 [Doc. No. 26]. That same day, the Court entered the Employment Order. In the Employment Order, the court allowed for the Debtor's Counsel to file fee applications every 45 days, rather than the 120 days as prescribed by statute. Notably, the Debtor's Counsel did not include a request to file fee applications every 45 days anywhere in his Employment Application.

On July 29, 2020, the Debtor's Counsel filed his first application for compensation [Doc. No 55]. There were no oppositions, and the Court granted the application on August 20, 2020 [Doc. No. 58]. On October 16, 2020, the Debtor's Counsel filed his second application for compensation [Doc. No. 78].

On October 20, 2020, the United States Trustee (the "US Trustee") filed the instant Motion. The US Trustee argues that because Debtor's Counsel never made a formal request to file fee applications on a shortened time period, the Court should modify the Employment Order to revert back to the language of 11 U.S.C. § 331, which only allows for fee applications every 120 days. The US Trustee cites Federal Rules of Civil Procedure ("FRCP") 60(a), 60(b), and Federal Rule of Bankruptcy Procedure ("FRBP") 9024, which allow the Court to correct an order if there has been a "clerical mistake" or any "mistake, inadvertence, surprise, or excusable neglect." The US Trustee believes that the filing of fee applications every 45 days in this case incurs excessive fees, which is not beneficial to the estate.

On November 3, 2020, the Debtor filed his opposition which argues that even though his counsel did not request to file fee applications every 45 days, it was inexcusable neglect for the US Trustee to not object earlier. In addition, the Debtor's Counsel argues that he has done a significant amount of time-intensive work in the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, November 17, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Michael Stuart Brown**

**Chapter 11**

Debtor's case, including filing and serving a chapter 11 plan and amended plan, and filing an adversary proceeding to determine title to the Debtor's principal residence. Furthermore, the Debtor's Counsel notes that the cost for preparation of the fee applications is minimal, at \$137.50 for both of the applications.

On November 9, 2020, the US Trustee filed his Reply. The US Trustee underscores his arguments from the Motion, but responds to the Debtor's Counsel's contention that he is entitled to fees every 45 days. The US Trustee argues that Debtor's Counsel is not entitled to fees every 45 days because this is not a "rare circumstance" that warrants application of the *Knudsen* factors. *In re Knudsen*, 84 B.R. 668 (9th Cir. BAP 1988).

## **II. Findings of Fact and Conclusions of Law**

FRCP 60(a) reads: "[t]he court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record." In addition, FRCP 60(b)(1) reads: "[o]n 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: . . . mistake, inadvertence, surprise, or excusable neglect." A court should correct a mistake where "what is written or recorded is not what the court intended to write or record . . . [t]he error can be corrected whether it is made by a clerk or by the judge." *Blanton v. Anzalone*, 813 F.2d 1574, 1577 (9th Cir. 1987).

It is undisputed that the Debtor's Counsel's Employment Application did not include a request to file fee applications every 45 days. The US Trustee had no notice of Debtor's Counsel's desire to file fee applications every 45 days, nor did he have any opportunity to object to that shortened application period. Debtor's Counsel's contentions that the US Trustee waited four months to address this issue, that he has provided substantial work product for the estate, and that the fees sought in connection with the applications are small, obfuscates the plain fact that Debtor's Counsel did not request to file fee applications every 45 days in the employment motion. The Court erred when it entered the Employment Order. That the Employment Order includes such language is clearly a mistake on the Court's part, and not the fault of the US Trustee. Entering the Employment Order with this provision was improvident.

In addition, *In re Commercial Consortium of California*, 135 B.R. 120 (Bankr.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, November 17, 2020

Hearing Room 1568

11:00 AM

CONT... Michael Stuart Brown

Chapter 11

C.D. Cal. 1991) cited by Movant is inapposite for a number of reasons. First, while the *Commerical Consortium* court may have believed that the 120-day provision was a "straight-jacket for lawyers of the '90s" (*Id.* at 123) Congress has had numerous opportunities to amend § 331 since, but has not done so. Second, although the amount of work debtor's counsel must complete in the first few weeks of a Subchapter V case is extraordinary, there is nothing in Subchapter V that renders inapplicable the 120-day provision. Third, the instant Motion is to correct an error in an order that this Court entered, not to determine the validity of the Debtor's Counsel's argument that he is entitled to seek fees every 45 days.

### III. Conclusion

For the reasons set forth above, the Motion is GRANTED and the court will enter an amended order. The order is without prejudice to counsel filing a motion seeking payment on a less than 120-day basis.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Stuart Brown

Represented By  
Michael F Chekian

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-12677 Green Jane Inc**

**Chapter 7**

**#1.00 APPLICANT: Attorney: Greenberg Glusker Fields Claman & Machti**

Hearing re [282] and [283] Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals

Docket 0

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

Fees: \$349,138.00 approved (consisting of \$203,205.00 awarded on an interim basis on December 7, 2018 [Doc. No. 211] and \$145,933.00 sought in connection with this application [Doc. No. 277])

Expenses: \$9,993.11 approved (consisting of \$3,834.67 awarded on an interim basis on December 7, 2018 [Doc. No. 211] and \$6,158.44 sought in connection with this application [Doc. No. 277]).

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Green Jane Inc**  
hearing.

**Chapter 7**

Applicant shall submit a conforming order within seven days of the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos  
Jeffrey A Krieger

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-12677 Green Jane Inc**

**Chapter 7**

**#1.20 FEES: US Trustee's Payment Center**

Hearing re [282] and [283] Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals

Docket 0

**Tentative Ruling:**

11/17/2020

See calendar number 1.60, incorporated by reference in full.

**Party Information**

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos  
Jeffrey A Krieger

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-12677 Green Jane Inc**

**Chapter 7**

**#1.30 Accountant: Biggs & Co**

Hearing re [282] and [283] Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals

Docket 0

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the second and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below (amounts previously paid on an interim basis, if any, are now deemed final).

Fees: \$116,159 approved (consisting of \$43,594.00 awarded on an interim basis on December 7, 2018 [Doc. No. 210] and \$72,565.00 sought in connection with this application [Doc. No. 278])

Expenses: \$819.03 approved (consisting of \$123.72 awarded on an interim basis on December 7, 2018 [Doc. No. 210] and \$695.31 sought in connection with this application [Doc. No. 278]).

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the

**United States Bankruptcy Court  
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**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Green Jane Inc**  
hearing.

**Chapter 7**

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos  
Jeffrey A Krieger



**United States Bankruptcy Court  
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Hearing Room 1568

10:00 AM

2:17-12677 Green Jane Inc

Chapter 7

#1.40 OTHER: Franchise Tax Board

Hearing re [282] and [283] Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals

Docket 0

**Tentative Ruling:**

11/17/2020

See calendar number 1.60, incorporated by reference in full.

**Party Information**

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos  
Jeffrey A Krieger

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Wednesday, November 18, 2020

Hearing Room 1568

10:00 AM

2:17-12677 Green Jane Inc

Chapter 7

#1.50 CHARGES: United States Bankruptcy Court

Hearing re [282] and [283] Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals

Docket 0

**Tentative Ruling:**

11/17/2020

See calendar number 1.60, incorporated by reference in full.

**Party Information**

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos  
Jeffrey A Krieger

**United States Bankruptcy Court  
Central District of California  
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**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-12677 Green Jane Inc**

**Chapter 7**

**#1.60 APPLICANT: Trustee: Rosendo Gonzalez**

Hearing re [282] and [283] Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals

Docket 0

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows (amounts previously paid on an interim basis, if any, are now deemed final).

Total Trustee's Fees: \$54,779.87 [*see* Doc. No. 282]

Total Trustee's Expenses: \$425.48 [*see id.*]

Total U.S. Bankruptcy Court Charges: \$700.00 [*see id.*]

Total U.S. Trustee Payment Center Fees: \$325.00 [*see id.*]

Total Franchise Tax Board Payments: \$8,247.00 [*see id.*] (consisting of cash disbursements approved on October 1, 2019 [Doc. No. 229] and April 7, 2020 [Doc. No. 260])

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Green Jane Inc**

**Chapter 7**

an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Green Jane Inc

Represented By  
Philip H Stillman

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Thomas A Willoughby  
Keith Patrick Banner  
C John M Melissinos  
Jeffrey A Krieger

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-10616 Manuel Macias**

**Chapter 7**

**#2.00** Hearing re [65] interim fee applications

Docket 0

**Tentative Ruling:**

11/17/2020

See calendar numbers 2.10 and 2.20, incorporated by reference in full.

**Party Information**

**Debtor(s):**

Manuel Macias

Represented By  
Jennifer Ann Aragon - SUSPENDED -

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Michael G D'Alba

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

10:00 AM

2:18-10616 Manuel Macias

Chapter 7

- #2.10** HearingRE: [68] Application for Compensation First Interim Application For Award Of Compensation And Reimbursement Of Expenses Of Danning, Gill, Israel & Krasnoff, LLP, As General Counsel To Chapter 7 Trustee; Declarations Of Eric P. Israel And Brad D. Krasnoff In Support Thereof, with Proof of Service for Danning, Gill, Israel & Krasnoff, LLP, General Counsel, Period: 3/21/2019 to 9/30/2020, Fee: \$83,663.00, Expenses: \$3,704.16.

Docket 68

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$83,663.00 [*see* Doc. No. 68] (the Trustee proposes disbursing approximately \$45,000 at this time. Therefore, the applicant shall receive a pro-rata share on an interim basis)

Expenses: \$3,704.16 [*see id.*] (the applicant shall receive the entire sum on an interim basis)

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**     **Manuel Macias**  
hearing.

**Chapter 7**

The applicant shall submit a conforming order within seven days of the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Manuel Macias

Represented By  
Jennifer Ann Aragon - INACTIVE -

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Michael G D'Alba

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Wednesday, November 18, 2020

Hearing Room 1568

10:00 AM

2:18-10616 Manuel Macias

Chapter 7

#2.20 HearingRE: [70] Application for Compensation (First Interim) with Proof of Service for Menchaca & Company LLP, Accountant, Period: 11/6/2019 to 10/26/2020, Fee: \$6,945.00, Expenses: \$0.00.

Docket 70

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$6,945.00 [*see* Doc. No. 70]

Expenses: \$0.00 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Manuel Macias**

**Chapter 7**

**Debtor(s):**

Manuel Macias

Represented By  
Jennifer Ann Aragon - INACTIVE -

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Michael G D'Alba

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

10:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#3.00** Order to show Cause re [94] Why He Should Not Be Required To Return Control Of The Vendor Account To Plaintiffs

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-17-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Represented By  
Steven J Renshaw  
Errol J Zshornack  
Peter J Tormey

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Represented By  
Peter J Tormey  
Errol J Zshornack

G-Sight Solutions, LLC, a California

Represented By  
Peter J Tormey  
Errol J Zshornack

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

10:00 AM

**2:20-14552 Khurram Mohammed**

**Chapter 7**

Adv#: 2:20-01168 Irone v. Mohammed

**#4.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01168. Complaint by Munni Alvi Irone against Khurram Mohammed - false pretenses, false representation, actual fraud (Milano, Sonny) Modified on 7/30/2020 (Milano, Sonny).

fr: 10-13-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-17-20**

**Tentative Ruling:**

11/17/2020

Hearing is VACATED. No appearances.

The Court will issue its own order on this matter.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Khurram Mohammed Pro Se

**Defendant(s):**

Khurram Mohammed Pro Se

**Plaintiff(s):**

Munni Alvi Irone Pro Se

**Trustee(s):**

Elissa Miller (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

10:00 AM

2:20-15501 Chineseinvestors.com, Inc.

Chapter 11

#5.00 HearingRE: [212] Application for Compensation of Interim Fees and Expenses, with Proof of Service for THE HINDS LAW GROUP, APC, Debtor's Attorney, Period: 6/18/2020 to 9/30/2020, Fee: \$158,303.65, Expenses: \$10,890.53.

Docket 212

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$158,303.65 [*see* Doc. No. 212]

Expenses: \$10,890.53 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Chineseinvestors.com, Inc.**

**Chapter 11**

**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

10:00 AM

2:20-15501 Chineseinvestors.com, Inc.

Chapter 11

#6.00 HearingRE: [213] Application for Compensation Interim Fees and Expenses, with Proof of Service for Irvine Venture Law Firm LLP, Special Counsel, Period: 6/18/2020 to 10/16/2020, Fee: \$28,215.00, Expenses: \$0.00.

Docket 213

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$28,215.00 [see Doc. No. 213]

Expenses: \$0.00 [see *id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Chineseinvestors.com, Inc.**

**Chapter 11**

**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

10:00 AM

2:20-15501 Chineseinvestors.com, Inc.

Chapter 11

#7.00 HearingRE: [215] Application for Compensation First Interim Application for Allowance of Fees and Reimbursement of Expenses of Weintraub & Selth, APC, General Bankruptcy Counsel for the Committee of Creditors Holding Unsecured Claims, for the Period from July 16, 2020 Through September 30, 2020; Declarations of Mary Y. Louie and James R. Selth in Support Thereof for James R Selth, Creditor Comm. Atty, Period: 7/16/2020 to 9/30/2020, Fee: \$47,020.70, Expenses: \$212.05.

Docket 215

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$47,020.70 [*see* Doc. No. 215]

Expenses: \$212.05 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Chineseinvestors.com, Inc.**

**Chapter 11**

**Party Information**

**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

10:00 AM

2:20-15501 Chineseinvestors.com, Inc.

Chapter 11

**#8.00** HearingRE: [219] Application for Compensation First Interim Application for Allowance of Fees and Reimbursement of Expenses of Force Ten Partners, LLC, Financial Advisor for the Committee of Creditors Holding Unsecured Claims, for the Period from July 19, 2020 Through September 30, 2020; Declaration of Adam Meislik in Support Thereof for FORCE 10 LLC, Financial Advisor, Period: 7/19/2020 to 9/30/2020, Fee: \$11,740.00, Expenses: \$.00.

Docket 219

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$47,020.70 [*see* Doc. No. 215]

Expenses: \$212.05 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the

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Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...** Chineseinvestors.com, Inc.  
hearing.

**Chapter 11**

**Party Information**

**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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2:20-15501 Chineseinvestors.com, Inc.

Chapter 11

#9.00 HearingRE: [202] Motion for Order Authorizing the Debtor to Continue Using Existing Cash Management System Including Pre-Petition Chinese Bank Accounts *Nunc Pro Tunc*; and Declaration in Support Thereof, with Proof of Service

Docket 202

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED**.

**Pleadings Filed and Reviewed**

1. Motion for Order Authorizing the Debtor to Continue Using Existing Cash Management System Including Pre-Petition Chinese Bank Accounts *Nunc Pro Tunc*; and Declaration in Support Thereof ("Cash Management Motion") [Doc. No. 202]
2. United States Trustee's Opposition to Motion for Order Authorizing the Debtor to Continue Using Existing Cash Management System Including Pre-Petition Chinese Bank Accounts *Nunc Pro Tunc* (the "Opposition") [Doc. No. 225]
3. Joinder of Official Committee of Unsecured Creditors to United States Trustee's Opposition to Motion for Order Authorizing Debtor to Continue Using Existing Cash Management System Including Pre-Petition Chinese Bank Accounts *Nunc Pro Tunc* (the "Committee's Joinder") [Doc. No. 226]
4. Reply to the Opposition of the United States Trustee to the Debtor's Motion for Continued Use of Cash Management System (the "Reply") [Doc. No. 227]

**I. Facts and Summary of Pleadings**

**A. Introduction**

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ChineseInvestors.com, Inc. (the "Debtor") filed a voluntary Chapter 11 petition on June 19, 2020 (the "Petition Date"). The Debtor is a financial information web portal that offers news and information regarding financial markets in Chinese. The Debtor also provides investor relations services for companies requiring Mandarin language support, which includes (a) translating client releases into English from Mandarin or vice versa, (b) increasing awareness of clients and their stock, and (c) helping clients move from the pink sheets to more established public securities exchanges.

On July 15, 2020, the Debtor filed an Emergency Motion for Interim and Final Orders Authorizing Debtor to Continue Using Existing Cash Management System and Chinese Bank Accounts *Nunc Pro Tunc* [Doc. No. 71]. In that motion, the Debtor argued that it needed to use Chinese bank accounts so it could pay its sales representatives located in Shanghai. In addition, the Debtor argued that it needed to use personal WeChat Pay and AliPay accounts (the "Cash App Accounts") in order to collect small sums from customers in Chinese renminbi ("RMB"). WeChat is a multi-purpose messaging, social media, and mobile payment application developed by Tencent that is widely used in China. On July 20, 2020, the United States Trustee (the "US Trustee") filed an objection [Doc. No. 85]. The US Trustee argued that the Debtor had not provided adequate assurances that the funds located in the Chinese accounts would not be transferred, manipulated, or frozen during the pendency of the bankruptcy. The US Trustee also expressed concern over the difficulty in monitoring the Chinese accounts, including the Cash App Accounts.

On July 22, 2020, the Court held a hearing on the matter and subsequently denied the motion without prejudice [Doc. Nos. 96 & 101]. The Court agreed with the US Trustee and determined that the Debtor had failed to show how use of the Chinese accounts could be effectively overseen by the US Trustee. The Court also noted that use of a non-approved account increases the risk that the funds could be frozen or seized by the Chinese government.

**B. Summary of the Cash Management Motion**

On October 13, 2020, the Debtor filed its second Cash Management Motion. In its Motion, the Debtor addresses a number of the Court's concerns.

The Debtor's primary revenue source consists of subscription payments received from mainly Chinese investors. The Debtor maintains an office in Shanghai,

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China for its sales representatives (the “Shanghai Sales Office”). Sales representatives at the Shanghai Sales Office use their personal Cash App Accounts to collect subscription revenues in RMB. Funds are then transferred from the sales representatives’ Cash App Accounts to the Debtor’s accountant via WeChat Pay or AliPay. The accountant, who is based in China, converts the funds to cash, deposits the cash in the office safe, and uses the cash to pay expenses incurred by the Shanghai Sales Office. This is necessary because according to Chinese government regulations, the bank account used by the Shanghai Sales Office (the “Bank of China Account”) cannot accept any money except for wire transfers from the Debtor’s DIP accounts in the United States.

All Cash App Account transactions are reported to the Debtor’s accountant in the United States for audit as soon as they are received. Funds collected by the Shanghai Sales Office using the Cash App Accounts are deducted from the monthly wire transfer that the Debtor sends to the Bank of China Account to pay for expenses of the Shanghai Sales Office. The Shanghai Sales Office accounts for 90% of the revenue of the Debtor, and of that, 14% is collected using the personal Cash App Accounts (therefore, approximately 12.6% of the Debtor’s revenue comes from Cash App Accounts using RMB). Between the filing of the first cash management motion and the instant Cash Management Motion, the Debtor has conducted extensive research into alternative forms of payment. The Debtor investigated the use of Line Pay, WhatsApp Pay, TransferWise, XendPay, and business WeChat Pay accounts. The Debtor was unable to find any other payment system that could take the place of its current Cash App Accounts. *See* Motion at 15-16 n.7. The Debtor also contends that there cannot be a risk of fraud with the Cash App Accounts because if a client pays a sales representative via WeChat Pay or AliPay, the sales representative must report the payment in order to activate the client’s account; if he does not activate the account, the client would complain and the fraud would be discovered.

The Debtor previously had two US bank accounts at JP Morgan Chase: an operating and payroll account and a business account that was previously used solely to process payments received by check. The Debtor then opened DIP accounts at Wells Fargo and East West Bank (“East West Accounts”). However, the only remaining DIP accounts are the East West Accounts, as the others were closed by Chase and Wells Fargo, respectively. The Debtor has two bank accounts based in China: the Bank of China Account, and an account at Shanghai Pudong Development Bank (the “Shanghai Newcoins Account”).

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Funds at the Bank of China Account are used to pay payroll, taxes, and general operating expenses for the Shanghai Sales Office. Chinese government regulations prohibit the Shanghai Sales Office from collecting any money. Instead, funds to operate the Shanghai Sales Office must be wired from the Debtor's East West Accounts in the United States to the Bank of China Account. The Debtor avers that if it were required to close the Bank of China Account, it would be unable to pay the employees who bring in 90% of the Debtor's revenues. In addition, the Debtor investigated opening an East West bank account in China in lieu of its Bank of China Account to allow the US Trustee to more effectively oversee its operations. *See* Motion at 18 n.9. However, the Debtor will remain unable to send any money from any bank account in China to a United States account, given the Chinese capital controls. The Debtor has categorically stated that there is no account that it can open at East West or the Bank of China that will allow it to transfer funds in RMB to an approved United States DIP account. *Id.* In addition, opening a bank account in China is a lengthy process with no guarantee of success.

In April 2018, the Debtor established NewCoins168.com Digital Media Technology Ltd. (Shanghai) ("Shanghai Newcoins"), a wholly-owned subsidiary. Approximately 95% of Shanghai Newcoins' cash flow is comprised of funds that the Debtor transfers to the Shanghai Newcoins Account from its US operations. The remaining 5% comes from investor relations revenue collected in RMB. The Shanghai Newcoins account is the only account the Debtor has that can accept *some* deposits in RMB. Shanghai Newcoins employs professional financial editors and analysts that support the Debtor's business. Shanghai Newcoins was established in China because the cost of labor is lower than in the United States. Employees of Shanghai Newcoins are paid from the Shanghai Newcoins Account. If the Debtor closed the Shanghai Newcoins Account, Shanghai Newcoins would no longer be able to retain the employees who support the Debtor's business, which would in turn deprive the Debtor of the majority of its revenues.

**C. Summary of the US Trustee's Opposition**

On October 28, 2020, the US Trustee filed his Opposition. The US Trustee argues that the Debtor's second Cash Management Motion is substantially similar to its first. The US Trustee believes that the Cash Management Motion fails to adequately set forth why the proposed cash management system is necessary rather than convenient. Opposition at 1-2. The crux of the US Trustee's argument is that the

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cash management system violates the US Bankruptcy Code and the Debtor provides insufficient evidence to support its position. *Id.* at 2.

The US Trustee expresses concerns over why the Debtor cannot use an East West Bank Account in China because, even though East West Bank cannot wire funds to the United States, by the Debtor's own admission it does not wire funds to the United States; all funds acquired in China stay in China. Opposition at 3. Moreover, the US Trustee states that "[t]here are no safeguards to protect the Chinese government from freezing these accounts during the pendency of the bankruptcy." *Id.* The US Trustee also casts doubt on the Debtor's contention that it cannot operate without an East West Bank account in China because the Debtor has, on at least one occasion, paid the rent for its Shanghai office directly from its US DIP accounts. *Id.*

Finally, the US Trustee avers that use of personal Cash App Accounts should not be allowed because the Debtor has not provided sufficient evidence that it is unable to use a centralized business account or open up a business account. *Id.* at 4. The US Trustee speculates that Chinese merchants likely use business accounts rather than individual employee accounts, and therefore the Debtor should do the same. *Id.*

**D. Summary of the Official Committee of Unsecured Creditors' Joinder**

On October 29, 2020, the Official Committee of Unsecured Creditors (the "Committee") filed its Joinder. The Committee also expresses concern over the Debtor's use of personal Cash App Accounts because it believes the "opportunity for dissipation of such funds is extremely troublesome." Committee's Joinder at 2. The Committee further emphasizes that all funds from the Debtor ought to be held in an approved depository bank, whether that be in China or the United States. *Id.*

**E. Summary of the Debtor's Reply**

On November 3, 2020, the Debtor filed its Reply. The Debtor argues that its business model is complex and it is required to have personnel in China to conduct research, analysis, subscription sales, and compliance. Reply at 7. The Debtor again argues that there is no domestic bank that does business in China that can meet its needs, and without its current system in China it will be unable to continue its business operations. *Id.* at 7-8.

The Debtor's operations in China account for almost 90% of its subscription revenues, and are made up of three identifiable segments: "(1) the Shanghai Rep



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Office Sales responsible for subscription sales; (2) the use of New World Technology payment sources used to capture subscription revenues in RMB that would otherwise be lost; and (3) the Shanghai Newcoins Office, which provides service and support for the Debtor's educational subscription platform as well as international investor relations sales/services." *Id.* at 8-9. The Debtor believes that it has sufficiently show that "cause" exists to modify the requirements of 11 U.S.C. § 345(b). The Debtor then cites the Wang Declaration to argue that its business is highly sophisticated, has extensive operations, large amounts of funds invested, and this represents a complex case. *Id.* at 10; *see also* Declaration of Warren Wang ("Wang Decl.") at ¶¶ 3-16 [Doc. No. 71]. Furthermore, the Debtor avers that it simply would not be able to function without its current cash management system in place because it could not pay its employees in the Shanghai Newcoins Office, nor could it collect subscription revenues in RMB via Cash App Accounts. *Id.* at 11. The Debtor also cites *In re Aerovias, Nacionales de Colombia S.A.* Case No. 03-11678 (ALG) (Bankr. S.D.N.Y. June 4, 2003) (unpublished opinion), along with numerous other cases, for the proposition that courts are willing to allow debtors to maintain foreign bank accounts. *Id.* at 11-12.

The Debtor contends that there are plenty of safeguards built into its cash management system. *Id.* at 12. The Debtor explains: "[w]ith regard to the Bank of China Account, as part of the Debtor's Cash Management system, all supporting documentation for cash withdrawals and cash payments showing exactly what the cash was used for is reviewed on a daily basis by Suiqing Wu, the accountant for the Shanghai [Sales] Office, and provided to the Debtor's US Accountant for review approval." *Id.* Furthermore, the Debtor clarifies that the bulk of its subscription revenues are collected in US dollars and deposited into the Debtor's DIP account, and 14% of the subscription revenue was collected using personal Cash App Accounts. *Id.* at 12-13. Finally, the Debtor argues that *nunc pro tunc* relief is warranted because this issue has been ongoing and the Debtor has engaged in extensive discussions with the US Trustee and the Committee, and explored alternatives to Chinese bank accounts and personal Cash App Accounts. *Id.* at 13-14.

## **II. Findings of Fact and Conclusions of Law**

### **A. Use of Foreign Depositories**

Local Bankruptcy Rule ("LBR") 2015-2 requires that debtors-in-possession comply with guidelines and requirements issued by the US Trustee. 11 U.S.C. § 345

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requires that estate property be deposited in authorized depository institutions “unless the Court for cause orders otherwise.” In determining whether there is cause to allow the Debtor to depart from § 345, courts conduct a totality of the circumstances inquiry and look to the following factors:

1. The sophistication of the debtor’s business;
2. The size of the debtor’s business operations;
3. The amount of investments involved;
4. The bank ratings (Moody’s and Standard and Poor) of the financial institutions where debtor-in-possession funds are held;
5. The complexity of the case;
6. The safeguards in place within the debtor’s own business of insuring the safety of the funds;
7. The debtor’s ability to reorganize in the face of a failure of one or more of the financial institutions;
8. The benefit to the debtor;
9. The harm, if any, to the estate; and
10. The reasonableness of the debtor’s request for relief from § 345(b) requirements in light of the overall circumstances of the case.

*In re Serv. Merch. Co., Inc.*, 240 B.R. 894, 896 (Bankr. M.D. Tenn. 1999).

“Particularly in chapter 11 cases where the debtor in possession is a large company with diversified investments under a sophisticated cash management system, courts are more prone to waive the requirements of 345(b)(2) on a permanent or an interim basis.” 3 COLLIER ON BANKRUPTCY ¶ 345.04 (16th ed. 2020).

While the Court maintains serious reservations about the Debtor’s use of foreign depositories, the court finds that without said depositories, the Debtor and the Debtor’s bankruptcy would run a significant risk of failure. Courts have flexibility in whether to require strict compliance with § 345. *See In re Ditech Holding Corp.*, 605 B.R. 10, 17 (Bankr. S.D.N.Y. 2019) (finding that “[t]he legislative history [of § 345(b)] is clear that including that language, the draftsmen intended to afford courts with flexibility in addressing the challenges of strict compliance with the deposit and investment requirements of section 345.”).

A request to continue using foreign bank accounts is unusual, but it is not unheard of. For example, in *In re Maxcom USA Telecom, Inc.*, the Debtor was a

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Mexican telecommunications company (“Maxcom”) with a complex cash management system. Case No. 19-23489 (RDD) (Bankr. S.D.N.Y. 2019). The Court allowed Maxcom to continue using its collection accounts, whereby it would collect funds in Mexican pesos in Mexican bank accounts at depositories that were not approved by the US Trustee. One of its accounts, held at BBVA Bancomer in Mexico, collected payments in pesos from clients, and the funds were then used to pay off a debt at another Mexican bank, Banconext. *Id.* at Doc. Nos. 27 & 73. The Court determined that despite having over a dozen bank accounts at unapproved depositories, without them, Maxcom would not be able to function. The case at bar is not dissimilar to either *In re Maxcom USA Telecom, Inc.* or to many others like it in the Southern District of New York. *See also In re Aerovias, Nacionles de Colombia S.A.*, Case No. 03-11678 (ALG) (Bankr. S.D.N.Y. June 4, 2003) (unpublished opinion) (allowing the debtor to continue use of foreign bank accounts); *In re Avaya Inc.*, Case No. 17-10089 (SMB) (Bankr. S.D.N.Y. Mar. 31, 2017) [Doc. No. 341] (unpublished opinion) (same); *In re Inversiones Alsacia S.A.*, Case No. 14-12896 (MG) (Bankr. S.D.N.Y. Dec. 4, 2014) [Doc. No 99] (unpublished opinion) (same); *In re Eagle Bulk Shipping*, Case No. 14-12303 (SHL) (Bankr. S.D.N.Y. Sept. 19, 2014) [Doc. No. 100] (unpublished opinion) (same).

Similar to *In re Maxcom*, the Debtor here is requesting to use foreign bank accounts to collect foreign funds, keep the funds in a foreign country, and use those funds to pay for a foreign expense. While the Debtor’s business is not as large as some of the above-cited cases, the investment amounts are still substantial and it is evident that failure to continue using its foreign depositories will impose a severe strain on its business and could ultimately lead to its demise. *See Wang Decl.* at ¶ 15 (“Debtor recorded total WeChat Pay sales over the last 60-days of: May RMB 430,314.85/\$60,765.69; and June RMB 277,620/\$39,217.00”). If the Debtor cannot pay its employees in China out of its existing bank accounts, its operations would be crippled, as 90% of its subscription revenue is tied to the employment of those sales representatives who solicit business and provide financial analysis [Note 1]. *See Wang Decl.* at ¶ 10 (“If the Debtor were forced to lose the Shanghai Newcoins account, the Debtor would lose the ability to recruit, retain and pay these valuable employees that the Debtor’s investor clients rely upon to provide complex financial analysis and services, and the Debtor would lose investor relations clients that can or will only pay in RMB.”). There is no approved depository that the Debtor can bank with in China that allows it to collect RMB. If it is unable to collect any RMB, it would lose out on 14% of its sales in the Shanghai Sales Office, and 5% of its

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revenues in the Shanghai Newcoins Office – a not insubstantial amount of money. *See* Wang Decl. at ¶ 7.

The Trustee argues that the Debtor has not shown that it cannot use an East West DIP account based in China; however, the Debtor explicitly states:

Establishing a banking relationship is very difficult a[nd] can take months, or longer. There is significant documentation that must be provided to open an account, and thereafter to make deposits and withdrawals and government approval is required to open and then for each deposit and/or withdrawal. There is no stated time frame for this process.

Motion at 21 n.11. While it would certainly be more convenient for the US Trustee if the Debtor could simply open an East West account today, it is evident that it could take a long time to get approved, or it may never get approved. Requiring the Debtor to cease operations immediately and divert funds into a new account would render it unable to pay employees, collect funds in RMB, and continue its operations.

While the US Trustee’s concern over the Chinese government freezing funds is valid, there is nothing to say that it could not freeze funds at East West Bank either, given China’s strict capital controls. Moreover, the Bank of China has a higher credit rating than East West Bank. *Compare* Bank of China: Credit Rating (as of 12/12/2019), [https://www.boc.cn/en/investor/ir4/201311/t20131114\\_2637906.html](https://www.boc.cn/en/investor/ir4/201311/t20131114_2637906.html), *with* East West Bank: Credit Ratings, <http://investor.eastwestbank.com/financial-information/credit-ratings/default.aspx>.

While the Court is prepared to grant the Debtor’s Cash Management Motion with respect to its foreign depositories, the Debtor must also immediately begin the process of attempting to open an approved East West account in China. The Court acknowledges that such an account may prove difficult to open, but the Debtor must attempt to do so. The Court is keenly aware of the US Trustee’s need for clear and effective oversight, something that would be far easier if the Debtor were to be using an approved depository. In the meantime, the Debtor will likely need to provide much more detailed financial reports as to which monies are in which accounts, and which have left, as well as bank statements, in order to address some of the concerns of the US Trustee.

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**B. Use of Cash App Accounts**

The Debtor's next request in its Cash Management Motion is for approval to allow continued use of the personal Cash App Accounts. 11 U.S.C. § 363(c)(1) allows a debtor-in-possession to "enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or hearing." Courts frequently treat motions to continue using an existing cash management system as relatively "simple matters." *In re Matter of Baldwin-United Corp.*, 79 B.R. 321, 327 (Bankr. S.D. Ohio 1987). Indeed, the Bankruptcy Code is designed to allow a debtor-in-possession "the flexibility to engage in ordinary transactions without unneeded oversight by creditors or the court." *In re Crystal Apparel, Inc.*, 207 B.R. 406, 409 (Bankr. S.D.N.Y. 1997). The Court acknowledges that this is an unusual request and likewise expresses concern over the use of these personal Cash App Accounts. Again, however, it appears as though there is no viable alternative for the Debtor.

Court oversight for business transactions is generally only required when there is a risk of dissipation of funds. The Debtor explains in great detail the way the Cash App Accounts work and how there is little to no room for fraud. For every transaction, screenshots are taken of each transaction and the funds are transferred from the personal accounts to the Debtor's accountant in the Shanghai Sales Office. Motion at 16. The transactions are all reported to the Debtor's domestic accountants for audit as soon as they are received. After the funds are accounted for, only two individuals have access to activate membership accounts. *Id.* at 19. Notably, the potential for fraud seems quite low because if one of these sales representatives in China or anyone in the Shanghai Sales Office were to skim funds and cheat a customer, the customer's investment account would never be activated, and he or she would complain that he or she had not received the promised product. *Id.* at 19 n.10.

The Trustee contends that the Debtor has not proven that there are no alternatives to the various Cash App Accounts it uses. Opposition at 4. However, the Debtor responds that it has looked into multiple other payment systems (Line Pay, WhatsApp Pay, TransferWise and XendPay) and none of them meet the Debtors needs. Motion at 15-16 n.7. In addition, the Debtor states that it has contacted WeChat in an attempt to open a single corporate account, but to no avail. Therefore, the Court finds that the Debtor has provided evidence sufficient for the court to find that without the Cash App Accounts, it will be unable to collect funds in RMB to run

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its Chinese operations. Furthermore, the Court is satisfied that here are adequate safeguards in place to meet any concerns over dissipation of funds. With that being said, as with the use of the foreign depositories, the Debtor will likely need to provide the US Trustee, upon its request, with any transactional information to allow it to perform its oversight authority.

**C. Other Related Relief**

The Debtor also requests that the Court issue an order granting administrative expense status to transfers to its non-debtor affiliates. The Debtor's argument is the exact same in this Cash Management Motion as it was in the first. Therefore, the Debtor's request is again denied. The Debtor has failed to show why it is necessary for this relief to be granted. According inter-company transfers administrative expense status affects all creditors of the estate. That is why administrative status is accorded only to claimants who can show, after notice and a hearing, that their claims qualify as an "actual" and "necessary" cost of preserving the estate. It is not appropriate for the Court to prospectively accord administrative status to future intercompany transfers that have not yet even been identified. To the extent that inter-company transfers are made in the ordinary course of business, court approval is not required. *See* 11 U.S.C. § 363(c)(1). But such transfers will be accorded administrative status only upon the granting of a motion brought under § 503(b).

The Debtor also requests that post-petition intercompany transfers be deemed a loan to the non-debtor affiliate, rather than a contribution of capital. Again, the Debtor's argument is the same in this Cash Management Motion as it was in the prior motion. The Debtor has provided no detail as to the nature of these future transfers. The Debtor may seek such relief by way of a properly noticed motion that sets forth in detail the basis for the characterization of such transfers.

Finally, because the Debtor has maintained its cash management system while engaging in research for alternatives and while in communications with the US Trustee, it requests *nunc pro tunc* treatment. The Debtor's request is granted.

**III. Conclusion**

As a final note, it appears to the Court that the longer this bankruptcy goes on

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without a typical cash management system, the less faith the Court will have in the Debtor's ability to restructure. Therefore, by no later than **Friday, January 8, 2021**, the Debtor must have a disclosure statement on file.

To the extent set forth above, and subject to the modifications as set forth above, the Motion is **GRANTED**. The Debtor is authorized to use its Chinese bank accounts and continue using its Cash App Accounts.

The Debtor shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** The US Trustee argues that because the Debtor appears to have paid for rent in Shanghai from its US bank accounts, it should be able to pay Chinese employees from US bank accounts. However, rent and salaries are different. Although the Debtor may have been able to pay for its Shanghai rent using a US bank account, that does not mean that it would be able to pay its Chinese employees' salaries in the same fashion.

<b>Party Information</b>
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**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

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#10.00 HearingRE: [209] Application for Compensation Accountant's First Interim Fee Application for Approval of Compensation and Reimbursement of Expenses; Declaration of Samuel R. Biggs for SLBiggs, Accountant, Period: 6/22/2020 to 9/30/2020, Fee: \$23,830.50, Expenses: \$71.76.

Docket 209

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$23,830.50 [see Doc. No. 209] [Note 1]

Expenses: \$71.76 [see id.]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.



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**CONT... Chineseinvestors.com, Inc.**

**Chapter 11**

Note 1: Pursuant to its request, SLBiggs may retain its \$25,000 post-petition retainer in its client trust account as a security deposit against further fees and costs incurred until such time as the Court enters an order approving SLBiggs' final fee application for services rendered in this case.

<b>Party Information</b>
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**Debtor(s):**

Chineseinvestors.com, Inc.

Represented By  
James Andrew Hinds Jr  
Rachel M Sposato

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

11:00 AM

2:16-17889 Manuel J. Leon, Jr.

Chapter 7

#100.00 APPLICANT: Trustee: ROSENDO GONZALEZ

Hearing re [54] and [55] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Trustee's Fees: \$3,250.00 [*see* Doc. No. 54]

Total Trustee's Expenses: \$213.20 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

Manuel J. Leon Jr.

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

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**CONT... Manuel J. Leon, Jr.**

**Chapter 7**

Gary Leibowitz  
Jacqueline D Serrao

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

11:00 AM

2:16-17889 Manuel J. Leon, Jr.

Chapter 7

#100.10 APPLICANT: Attorney: JEFFREY S SHINBROT

Hearing re [54] and [55] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below:

Fees: \$23,375 approved (the applicant has accepted a voluntary fee reduction. Therefore, the total amount to be paid in fees to the applicant is \$10,000.00) [*See* Doc. No. 53]

Expenses: \$415.45 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

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Central District of California  
Los Angeles  
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**CONT... Manuel J. Leon, Jr.**

**Chapter 7**

**Party Information**

**Debtor(s):**

Manuel J. Leon Jr.

Represented By  
Gary Leibowitz  
Jacqueline D Serrao

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

11:00 AM

2:16-17889 Manuel J. Leon, Jr.

Chapter 7

#100.20 APPLICANT: Accountant: SLBIGGS, A Division of SingerLewak

Hearing re [54] and [55] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below:

Fees: \$3,810.00 approved [*See* Doc. No. 52]

Expenses: \$113.47 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, November 18, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Manuel J. Leon, Jr.**

**Chapter 7**

**Debtor(s):**

Manuel J. Leon Jr.

Represented By  
Gary Leibowitz  
Jacqueline D Serrao

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

11:00 AM

2:18-22144 Hakop Jack Aivazian

Chapter 7

#101.00 APPLICANT: Accountant for Trustee: LEA ACCOUNTANCY

Hearing re [160] Trustee's Final Report and Applications for Compensation

FR. 11-4-20

Docket 0

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$11,091.00 approved [*See* Doc. No. 149]

Expenses: \$244.12 approved [*Id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Applicant shall submit a conforming order within seven days of the hearing.



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Central District of California  
Los Angeles  
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**CONT... Hakop Jack Aivazian**

**Chapter 7**

**Party Information**

**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:18-22144 Hakop Jack Aivazian**

**Chapter 7**

**#102.00** APPLICANT: Attorney for Trustee: DANNING GILL ISRAEL & KRASNOFF LLP

Hearing re [160] Trustee's Final Report and Applications for Compensation

FR. 11-4-20

Docket 0

**Tentative Ruling:**

11/17/2020

See calendar number 103, incorporated by reference in full.

<b>Party Information</b>
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**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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2:18-22144 Hakop Jack Aivazian

Chapter 7

#103.00 APPLICANT: Trustee: Brad D. Krasnoff

Hearing re [160] Trustee's Final Report and Applications for Compensation

FR. 11-4-20

Docket 0

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Fee Applications are GRANTED as follows:

- 1) The Trustee's Application is GRANTED in the amount of \$52,541.10 in fees and \$302.04 in expenses
- 2) The Danning Gill Application is GRANTED in the amount of \$39,040.00 in fees and \$546.88 in expenses

**Pleadings Filed and Reviewed:**

- 1) First and Final Application for Award of Compensation and Reimbursement of Expenses of Danning, Gill, Israel & Krasnoff, LLP as General Counsel for Chapter 7 Trustee; and Declarations of Eric P. Israel and Brad D. Krasnoff in Support Thereof (the "Danning Gill Application") [Doc. No. 156]
- 2) Chapter 7 Trustee's Final Report and Applications for Compensation (the "Trustee's Final Report") [Doc. No. 159]
- 3) Notice of Trustee's Final Report and Applications for Compensation [Doc. No. 160]
- 4) Objection to Chapter 7 Trustee's Final Report and Applications for Compensation (the "Objection") [Doc. No. 166]

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**Hakop Jack Aivazian**

**Chapter 7**

- 5) Transcript of Meeting of Creditors on April 30, 2019 (the "Transcript of Meeting of Creditors") [Doc. No. 167]
- 6) Declaration Re: Late Filing of Objection [Doc. No. 168]
- 7) Reply Memorandum in Support of Trustee's Final Report and Account and Final Application for Compensation and Reimbursement of Expenses by General Counsel to Trustee (the "Reply") [Doc. No. 169]

## **I. Facts and Summary of Pleadings**

### **A. Background**

Hakop Jack Aivazian (the "Debtor") filed a voluntary chapter 11 petition on October 16, 2018. On his Schedule A/B, he listed three properties:

- 1) 1728-1730-1734 E. Woodbury Avenue, Pasadena, CA 91104 (the "Woodbury Property")
- 2) 1434 N. Sierra Bonita Avenue, Pasadena, CA 91104 (the "Sierra Property")
- 3) 1257 N. Oxford Avenue, Pasadena, CA 91104 (the "Oxford Property")

The Debtor (perhaps through the fault of his then counsel) did not comply with various chapter 11 requirements and the United States Trustee (the "UST") moved to convert the case to chapter 7 on December 18, 2018 [Doc. No. 21]. On January 15, 2019, this Court granted the motion and converted the case to chapter 7 [Doc. No. 33]. Shortly thereafter, on January 22, 2019, Brad Krasnoff was appointed as chapter 7 trustee (the "Trustee").

At some point prior to the April 30, 2019 meeting of creditors (the "Meeting of Creditors"), the Debtor attempted to refinance the Woodbury Property, which (if approved by the court) would have allowed him to pay off the secured creditors on that property and leave him with approximately \$162,000 in funds that he could use to bring his loans current on the Oxford Property. However, the proposed lender would not proceed with the refinancing absent a court order or dismissal of the case. On April 19, 2019, the Debtor filed a motion to dismiss [Doc. No. 50]. The Trustee responded on April 26, 2019 [Doc. No. 54], and then on April 30, 2019, the Meeting of Creditors occurred.

At the Meeting of Creditors, the Trustee sought clarification on the

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**Chapter 7**

refinancing arrangement. *See* Transcript of Meeting of Creditors. The Trustee calculated that there was between \$500,000 and \$600,000 worth of equity in the Woodbury Property, and was unsure if refinancing was in the best interest of creditors. Transcript of Meeting of Creditors at 14, lines 7-11. The Trustee expressed doubt as to whether refinancing the property at a high interest rate made more sense than liquidating the property. *Id.* at 18, lines 1-5. On May 1, 2019, the Trustee filed a supplemental declaration stating that on April 30, 2019, after filing his response to the motion to dismiss, he examined the Debtor at the continued Meeting of Creditors. The Trustee stated that the Debtor testified under oath that no refinancing transaction regarding the Woodbury Property had closed either pre or post-petition, and that he believed the Woodbury Property was worth approximately \$1,500,000 with approximately \$900,000 in liens against it. Declaration of Brad D. Krasnoff at ¶ 5 ("Krasnoff Decl.") [Doc. No 58]. The Trustee was investigating the value of the Woodbury Property and the extent of the liens against it to determine whether it contained any realizable net equity that the Trustee could administer for the benefit of creditors. *Id.* at ¶ 6. The Trustee further noted that although the claims bar date had not yet passed, eleven claims had been filed to date and unsecured claims appeared to be at least \$59,512.24. *Id.* at ¶ 7. Therefore, the Trustee believed that dismissal was not in the best interest of creditors because there was a possibility that funds could be generated for unsecured creditors.

On May 15, 2019, the Court held a hearing denying the motion to dismiss, noting that the Debtor had failed to establish "cause" to dismiss the case. *See* Ruling on Motion to Dismiss [Doc. No. 67]. The Court also indicated that it was unclear what the Debtor owed to unsecured creditors, as the Trustee had not yet noticed a claims bar date. As of May 15, 2019, the unsecured claims were \$59,512.24. Finally, the Court opined that even if the case was dismissed, there was no guarantee that the Debtor would pay off his debts outside of bankruptcy. Following the denial of the motion to dismiss, the Debtor substituted new bankruptcy counsel.

Concurrently, on March 13, 2019, the UST filed a motion to disgorge fees from Counsel [Doc. No. 40]. Counsel did not respond to the UST's motion and on April 19, 2019, the Court entered an Order granting the UST's motion and ordering Counsel to return \$8,000 to the Trustee by May 19, 2019 (the "Disgorgement Order") [Doc. No. 49]. On May 7, 2019, Counsel filed a motion for reconsideration regarding the Disgorgement Order [Doc. No. 61]. On July 11, 2019, the Court granted the motion for reconsideration, and reduced the disgorgement sum from \$8,000 to \$4,500.

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On October 30, 2019, the Trustee filed a Motion to Approve Compromise with Hakop Jack Aivazian (the "Motion to Approve Compromise") [Doc. No. 130]. In the Motion to Approve Compromise, the Debtor was to pay the Trustee \$162,103.05 (the "Compromise Sum") and in return the Trustee would cooperate with the Debtor's proposed refinancing of the Woodbury Property. The Woodbury Property was encumbered by liens in the amount of \$744,060.00. The Trustee calculated that, after the claims bar date passed, the total claims were in the amount of \$1,370,912.11, of which \$1,352,213.41 were secured and \$18,698.70 were unsecured. Motion to Approve Compromise at 3. The parties agreed that once the Debtor paid the Trustee the Compromise Sum, the Trustee would agree not to sell the Woodbury Property. On November 20, 2019, the Motion to Approve Compromise was granted [Doc. No. 133].

Following the granting of the Motion to Approve Compromise, this Court held four hearings on the Debtor's objections to unsecured claims held by American Express National Bank, all of which were sustained and which claims were disallowed [Doc. Nos. 140-143]. On June 1, 2020, LEA Accountancy filed its Application for Compensation [Doc. No. 149]. On July 9, 2020, Danning, Gill, Israel & Krasnoff ("Danning Gill") submitted the Danning Gill Application. The Danning Gill Application requests \$39,040.00 in fees and \$546.88 in costs. Danning Gill Application at 3.

On September 28, 2020, the Trustee filed his Final Report. The Trustee's Final Report states that he realized gross receipts of \$1,044,522.99, of which \$1,040,022.99 was from refinancing the Woodbury Property and the Compromise Sum. Trustee's Final Report at 6. The remaining \$4,500 was received from the disgorgement of funds by Counsel. *Id.* To date, the Trustee has incurred administrative expenses of \$3,477.35 and made \$874,309.67 in payments to creditors. There is a balance on hand of \$166,735.96 and the Trustee requests \$52,541.10 in fees (the "Fees") and \$302.04 in expenses. *Id.* at 15. The Trustee also plans to pay the California Department of Tax and Fee Administration in full for all of its claims (totaling \$2,434.70) and the Internal Revenue Service for all of its claims (totaling \$1,611.69). *Id.* at 15-17. After all proposed payments, there will be a balance of \$58,700.92 returned to the Debtor.

On October 26, 2020, the Debtor filed a Motion to Continue Hearing on

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Chapter 7

Applications for Compensation, and the Court granted the motion the next day [Doc. Nos. 163-164].

**B. Summary of the Debtor's Objection**

On November 5, 2020, after already having requested a continuance to file an objection, the Debtor filed a late objection to the Danning Gill Application and the Trustee's Final Report. In his Objection, the Debtor avers that the Trustee did very little work to be compensated his Fees. Namely, the Debtor was already looking into refinancing the Woodbury Property before the Meeting of Creditors and could have paid his mortgages and claims on his own without the Trustee. The Debtor believes that the Trustee should only receive compensation for the \$1,741 in priority debt and \$1,323 in unsecured debt that he administered, which would amount to a fee of \$766. Objection at 4, 7.

The Debtor argues that the Trustee's Fees do not amount to "reasonable compensation" under 11 U.S.C. § 330(a)(1)(A). The Debtor argues that because the property was not liquidated, marketed, or prepared for sale, the Trustee does not deserve his Fees. The Debtor contends that majority of the transfers were "constructive disbursements made out of escrow to lienholder lenders to Debtor and secured tax authorities." Objection at 7. The Debtor further argues that "where the asset is simply turned over to the secured creditor, the value of the lien is not included, and assets which are turned over to the debtor as surplus, or which are abandoned, are also not included" in the calculation of fees. *Id.* at 6. He then writes: "[t]his turnover is analogous to the situation where an asset is turned over to a secured creditor (rather than sold to a third party), in that the Trustee has added zero value to the estate." *Id.* at 7. He claims that all of the work was done by the loan broker and the Debtor's attorney. *Id.* Because the total priority debt, unsecured debt, proposed Trustee's fees and expenses amount to just \$4,132.04, the Debtor claims that it all could have been "easily covered by the disgorgement payment of \$4,500 from [Counsel]." *Id.* at 7-8.

Next, because the Trustee's fee structure is a commission, the Debtor believes that it "implies a more results-based fee structure compared to a request for compensation by an hourly professional." *Id.* at 8. The Debtor cites *In re Salgado-Nava* for the proposition that there must be a "rational relationship between the amount of commission and the type and level of services rendered." 473 B.R. 911, 920 (B.A.P. 9th Cir. 2012). The Debtor also argues that the "extraordinary

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circumstances," as mentioned by the Court in *In re Salgado-Nava*, where a fee would be reduced, apply here. *Id.* at 922. The Debtor also cites *In re Scoggins* for the proposition that Courts have adopted a "rule which allows adjustment of a request for trustee's fees where the fee is 'unreasonably disproportionate' or where the distribution to unsecured creditors is not 'meaningful'. . . ." Objection at 9 (quoting *In re Scoggins*, 517 B.R. 206 (Bankr. E.D. Cal. 2014)). Therefore, according to the Debtor, because the final distribution to unsecured creditors was just \$3,064, the Trustee's Fees are disproportionate. The Debtor goes on to argue that even though distribution to unsecured creditors was 100%, the Trustee's "involvement in the refinance of the Woodbury [P]roperty as an administered asset was unnecessary." Objection at 9. The Debtor admits that Trustee's counsel "would have needed to be paid" because the refinancing needed to be court approved. *Id.*

Finally, the Debtor avers that the Trustee's Final Report is too sparse, and failed to "discuss in detail the actions taken in the case, any alternatives, the costs to the estate and [D]ebtor, etc." *Id.* at 10.

On November 10, 2020, the Court received via U.S. Mail an audio recording, in CD-ROM format, of the Meeting of Creditors between the Debtor and the Trustee that took place on April 29, 2019. Audio testimony will only be considered when the Court is reviewing witness testimony for purposes of credibility. It is unclear what evidentiary value the Debtor expects the Court to glean from this recording. What is clear is that the Debtor is unhappy with the Trustee's tone of voice at the hearing; however, the allegations against the Trustee's tone are not well taken and will not be considered.

**C. Summary of the Trustee's Reply**

On November 10, 2020, the Trustee filed his Reply. The Trustee first notes that the Debtor did not make any substantive objections to the Danning Gill Application. Reply at ¶ 1. The Trustee argues that while the Debtor may not like the result of the bankruptcy proceeding, he voluntarily filed his petition. *Id.* at ¶ 3. Furthermore, at the time the Trustee was appointed, there were 12 claims in the amount of \$1,370,912.11, including unsecured claims of \$29,523.71. *Id.* at ¶ 4. It was not until January 20, 2020 that the Debtor successfully disallowed a number of the claims. *Id.*

The Trustee then clarifies that the Debtor's argument regarding "constructive



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**Hakop Jack Aivazian**

**Chapter 7**

disbursements" is incorrect because the Court in *In re Blair* allowed payments to third parties through escrow to be counted as distributions for purposes of a trustee's fee. *Id.* at ¶ 6; 329 B.R. 358 (B.A.P. 9th Cir. 2005). The Trustee argues that because the Woodbury Property was property of the estate, he had the power to sell the property which would have likely netted higher proceeds for the estate at a valuation of \$1.5 million; however, the Trustee agreed to the refinancing and calculates that distributions will be \$985,216.01. *Id.* at ¶¶ 7-9. The Trustee also disagrees with the Debtor's contention that the Trustee did no work, claiming that "the Trustee and his counsel documented the settlement and obtained Court approval of it, they had numerous calls and communications with the broker and escrow company and internal communications to analyze the refinance versus sale ramifications, and generally shepherded the transaction through closing." *Id.* at ¶ 10. The Trustee argues that creditors were paid in full, the Debtor has been able to keep all three parcels of his property, and he is receiving a surplus of \$56,000. *Id.* at ¶ 12.

## **II. Findings of Fact and Conclusions of Law**

### **A. The Danning Gill Application**

11 U.S.C. § 330(a)(1) allows the Court to award "reasonable compensation for actual, necessary services rendered" by a professional. In determining the amount of compensation to award, the Court considers the:

nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled

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**Chapter 7**

practitioners in cases other than cases under this title.  
11 U.S.C. § 330(a)(3).

The Debtor objects to the Danning Gill Application, but it is unclear what his objection is based upon. The Debtor makes no specific arguments about any of the work Danning Gill did. He writes once that "[t]he Debtor and his broker, and to a much lesser degree counsel, did all the work to get [the refinancing] set up . . . ." Objection at 4. Otherwise, the Debtor does not point to any services that were unnecessary or any specific billing that he disagrees with. In fact, he admits that "[i]t is true that trustee's counsel (whose main contribution was to obtain the approval of the Court for the refinance) would have needed to be paid, but payment of these fees could have been arranged through the refinance." *Id.* at 9.

Therefore, because the Debtor does not substantively object to the Danning Gill Application, the Court finds the fees reasonable. The objection is **OVERRULED** and the Danning Gill Application is **GRANTED**.

**B. The Trustee's Application**

11 U.S.C. 330(a)(1)(A) reads, in relevant part: "[a]fter notice to the parties in interest and the United States Trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee . . . reasonable compensation for actual, necessary services rendered by the trustee . . . ." "Reasonable compensation" for trustees is treated as a commission based on § 326, which reads:

In a case under chapter 7 or 11, other than a case under subchapter V of chapter 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 such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by a trustee to parties in interest, excluding the debtor, but including holders of secured claims.

11 U.S.C. §§ 330(a)(7) & 326.

Section 326 clearly states that the Trustee's compensation includes "holders of

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**Chapter 7**

secured claims." The Woodbury Property was refinanced and the money was used to repay secured creditors. Therefore, the Debtor's contention that secured claims paid simply do not play into the calculation of a Trustee's fees is incorrect.

Exactly what "reasonable compensation" under §§ 330(a)(1) & (7) means, however, has provided great consternation for courts, especially in the Ninth Circuit. A handful of recent cases provide some insight and make clear that the Trustee's Fees are not unreasonable.

The Court in *In re Salgado-Nava* reversed a lower court's finding that a chapter 7 trustee's fee was unreasonable and should be reduced because no "extraordinary circumstances" existed. 473 B.R. at 921. There, the lower court did not calculate the trustee's fees as a commission, but rather what a "reasonable rate of compensation for the time [the trustee] and his paralegals actually spent working on the case." *Id.* at 922. The Court did not address what "extraordinary circumstances" were exactly, but opined on the commission structure for trustees: "when the most a chapter 7 trustee can expect in 90% of his or her cases is a flat \$60 fee, a commission-based system for the other 10% has a certain symmetry to it." *Id.* Indeed, "absent extraordinary circumstance, bankruptcy courts should approve chapter 7, 12, and 13 trustee fees without any significant additional review." *Id.* at 921.

The Debtor cites *In re KVN Corp.* for the proposition that where the "administration of the asset appears to be primarily for the trustee's benefit" and there is no "meaningful" distribution to unsecured creditors, the trustee's fees should be reduced. Objection at 9. However, the procedural posture in *In re KVN Corp.* is highly relevant: the trustee was seeking approval on a motion to approve a stipulation whereby the trustee had made a deal with a secured creditor to sell an asset and split the proceeds between the secured creditor and the bankruptcy estate. 514 B.R. 1, 3 (B.A.P. 9th Cir. 2014). The Court determined that the stipulation was not in the best interest of unsecured creditors because it was a "carve-out" arrangement: the trustee was attempting to sell a fully encumbered asset, which is prohibited. *Id.* at 5. The Woodbury Property was not fully encumbered and there was in fact a large amount of equity in the property.

Shortly after *In re KVN Corp.*, the Eastern District of California heard *In re Scoggins* and provided clarification on what "reasonable compensation" and "extraordinary circumstances" mean. There, the Court reduced a Trustee's fees in

**United States Bankruptcy Court  
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Los Angeles  
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11:00 AM

**CONT... Hakop Jack Aivazian**

**Chapter 7**

three cases where in each of the cases the asset to be administered was underwater. 517 B.R. 206, 209. In addition, in none of the three cases did unsecured creditors receive 100% of their claims; the payments were 32%, 5%, and, in one case, 0% to unsecured creditors. *Id.* at 208. Two of the cases in question would have otherwise been no asset cases and the only funds realized from those two were from "short sale" "carve-outs." *Id.* at 225.

Here, there is no question that there was substantial equity in the Woodbury Property. Indeed, none of the above-cited cases by the Debtor bear much resemblance to this case, as the Woodbury Property was not underwater, it was not subject to a carve-out, and the Court approved the refinancing arrangement and the Motion to Approve Compromise. The Debtor essentially argues that the Trustee's Fees are unfair in relation to the payments to unsecured creditors, but as the Court in *In re Scoggins* wrote:

It is beyond cavil that a trustee is "primarily" benefitted when the trustee's fee exceeds the funds that would have been available to pay unsecured priority and general claims. It might, of course, also be the fact that, in any given case, a trustee fee that is less than the amount remaining available for unsecured claims might also "primarily" benefit the trustee.

*Id.* at 223. At the time the case began, there were over \$1,370,912.11 in claims, and in the Krasnoff Declaration filed on May 1, 2019, unsecured creditors totaled \$59,512.24. Krasnoff Decl. at ¶ 7. It is no fault of the Trustee that the amount of unsecured claims decreased; what matters is that there was a meaningful distribution to unsecured creditors - every unsecured creditor was paid in full.

Finally, the Trustee has provided additional information as to the work he did in helping to refinance the property. While the Debtor may have done much of the initial work, the Trustee had to determine whether refinancing was in the best interests of creditors, respond to the Debtor's motion to dismiss, and put together the Motion to Approve Compromise. The Court also notes that whatever work the Debtor says he put into the transaction, none of this would have provided a benefit to anyone unless this court approved it. Quite simply, there is no refinance unless and until the court says there is a refinance.

The Debtor filed for bankruptcy voluntarily and availed himself of the laws and protections of the bankruptcy code. In fact, the Debtor filed his petition to avoid impending foreclosure of his properties, something that he has successfully avoided.

**United States Bankruptcy Court  
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CONT... **Hakop Jack Aivazian**

**Chapter 7**

The Debtor contends that he could have done all of the work on his own; however, the Debtor cannot both obtain the benefits of a bankruptcy and shrug off its burden. Further, there is no merit to the argument that conversion to chapter 7 due to his Counsel's "unexcused conduct imposes an unjust penalty on the [Debtor] . . . [the Debtor] voluntarily chose [his Counsel] as his representative in this action, and he cannot now avoid the consequences of the acts or omissions of this freely selected agent." *Link v. Wabash R.R. Co.*, 370 U.S. 626, 633-34 (1962). The Trustee's Fees are not unreasonably disproportionate to the work he did, nor does this case contain any extraordinary circumstances, because unsecured creditors were paid in full and the Trustee never attempted to sell or refinance a property that was fully encumbered.

### **III. Conclusion**

Based upon the foregoing, the Debtor's Objection is OVERRULED. The Danning Gill Application and the Trustee's Final Report are GRANTED.

The Trustee shall submit a conforming order for his application, incorporating this tentative ruling by reference, within 7 days of the hearing.

Danning Gill shall submit a conforming order for its application, incorporating this tentative ruling by reference, within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact **Daniel Koontz** or **Andrew Lockridge** at 213-894-1522. If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**United States Bankruptcy Court  
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Los Angeles  
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**CONT... Hakop Jack Aivazian**

**Chapter 7**

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, November 18, 2020

Hearing Room 1568

11:00 AM

**2:19-13059 Norberto Pimentel and Erica Pimentel**

**Chapter 7**

**#104.00** HearingRE: [93] Motion For Sale of Property of the Estate under Section 363(b) - No Fee (Stevens, Adam)

Docket 93

**Tentative Ruling:**

11/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Chapter 7 Trustee's counsel shall appear to respond to the issues set forth in the *Order: (1) Rejecting Trustee's Request to Take Sale Hearing Off Calendar and (2) Requiring the Trustee's Counsel to Appear at the Sale Hearing to Provide the Court an Update on Efforts to Market the Property* [Doc. No. 98].

<b>Party Information</b>
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**Debtor(s):**

Norberto Pimentel

Represented By  
Marcus Gomez

**Joint Debtor(s):**

Erica Pimentel

Represented By  
Marcus Gomez

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Adam Stevens

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 23, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-12770 Wise Choice Plumbing and Rooter, Inc.**

**Chapter 7**

**#1.00** HearingRE: [43] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Chevrolet Comm High Cube Van 3500 VIN#1GB0G2CG9F1199282 with proof of service. (Delmotte, Joseph)

Docket 43

**Tentative Ruling:**

11/20/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-



**United States Bankruptcy Court  
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Los Angeles  
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10:00 AM

**CONT... Wise Choice Plumbing and Rooter, Inc.**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Wise Choice Plumbing and Rooter,

Represented By  
Paul M Brent

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Carolyn A Dye

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 24, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#1.00 Hearing**

RE: [5367] Motion to Allow Claims filed by Creditor AppleCare Medical Management, LLC, Creditor AppleCare Medical Group, Inc., Creditor AppleCare Medical Group St. Francis, Inc., [ 5445] Motion to Allow Claims filed by Creditor AppleCare Medical Management, LLC, Creditor AppleCare Medical Group, Inc.

Docket 5367

**\*\*\* VACATED \*\*\* REASON: WILL BE HEARD AT 11:00 A.M. TODAY**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 24, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01559 ST. VINCENT MEDICAL CENTER, a California nonprofit v. BLUE

**#100.00** Hearing  
RE: [12] Motion to Dismiss Adversary Proceeding Blue Shield of California Promise Health Plans Notice of Motion and Motion to: (1) Dismiss Claims for Turnover, Violation of the Automatic Stay and Unjust Enrichment; and (2) Compel Arbitration and Stay Adversary Proceeding; Memorandum of Points and Authorities (Reynolds, Michael)

Docket 12

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-16-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**Defendant(s):**

BLUE SHIELD OF CALIFORNIA

Represented By

Michael B Reynolds

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 24, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Plaintiff(s):**

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

Seton Medical Center, a California

Represented By  
Steven J Kahn

O'Connor Hospital, a California

Represented By  
Steven J Kahn

Saint Louise Regional Hospital, a

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 24, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01575 St. Vincent Medical Center, a California nonprofit v. California Physicians'

**#101.00** Hearing  
RE: [13] Motion to Dismiss Adversary Proceeding ): Blue Shield of Californias  
Notice of Motion and Motion to: (1) Dismiss Claims for Turnover, Violation of the  
Automatic Stay and Unjust Enrichment; and (2) Compel Arbitration and Stay  
Adversary Proceeding; Memorandum of Points and Authorities (Reynolds,  
Michael)

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-16-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**Defendant(s):**

California Physicians' Service, a

Represented By

Michael B Reynolds

**United States Bankruptcy Court  
Central District of California  
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Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 24, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Plaintiff(s):**

St. Vincent Medical Center, a	Represented By Steven J Kahn
Seton Medical Center, a California	Represented By Steven J Kahn
O'Connor Hospital, a California	Represented By Steven J Kahn
Saint Louise Regional Hospital, a	Represented By Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, November 24, 2020**

**Hearing Room 1568**

11:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#102.00** Hearing

RE: [5367] Motion to Allow Claims filed by Creditor AppleCare Medical Management, LLC, Creditor AppleCare Medical Group, Inc., Creditor AppleCare Medical Group St. Francis, Inc., [ 5445] Motion to Allow Claims filed by Creditor AppleCare Medical Management, LLC, Creditor AppleCare Medical Group, Inc.

Docket 5367

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-16-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1639**

9:00 AM

**2:17-18597 Base Architecture Planning & Engr Inc.**

**Chapter 7**

Adv#: 2:20-01005 Gonzalez v. Anderson

**#1.00 JURY Trial Date Set**

RE: [1] Adversary case 2:20-ap-01005. Complaint by Rosendo Gonzalez against Michael H. Anderson. (Charge To Estate). Complaint: (1) To Avoid Fraudulent Transfers Pursuant To 11 U.S.C. §§ 544 and 548; (2) To Recover Avoided Transfers Pursuant To 11 U.S.C. § 550; and, (3) Automatic Preservation of Avoided Transfer Pursuant To 11 U.S.C. § 551 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Gonzalez, Rosendo)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PRETRIAL 2-9-21 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Base Architecture Planning & Engr

Represented By  
M. Jonathan Hayes

**Defendant(s):**

Michael H. Anderson

Pro Se

**Plaintiff(s):**

Rosendo Gonzalez

Represented By  
Rosendo Gonzalez

**Trustee(s):**

Rosendo Gonzalez (TR)

Represented By  
Rosendo Gonzalez



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1639**

9:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01387 Mastan, Chapter 7 Trustee v. Bank of Hope et al

**#2.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01387. Complaint by Peter J. Mastan, Chapter 7 Trustee against Bank of Hope, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 6-22-20; 8-24-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-22-21 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Bank of Hope

Pro Se

Jason Young Cho

Pro Se

Youngduk Duk Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
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Los Angeles  
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**Monday, November 30, 2020**

**Hearing Room 1639**

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9:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-15693 Kami Emein**

**Chapter 7**

Adv#: 2:18-01260 Amin v. Emein

**#3.00** Trial Date Set RE: [21] Amended Complaint 2nd Amended by Michael N Berke on behalf of Joseph Amin against Kami Emein. (Berke, Michael)

fr: 7-29-19, 9-30-19; 1-27-20; 5-25-20; 8-24-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-22-21 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kami Emein

Represented By  
Jacques Tushinsky Fox

**Defendant(s):**

Kami Emein

Represented By  
TJ Fox

**Plaintiff(s):**

Joseph Amin

Represented By  
Michael N Berke

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Uzzi O Raanan ESQ  
Sonia Singh

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01111 Danny's Silver Jewelry Inc., a California cor v. Zendedel

**#4.00 Trial Date Set**

RE: [1] Adversary case 2:19-ap-01111. Complaint by Danny's Silver Jewelry Inc., a California corporation, dba Danny's Silver, Inc., dba Danny's Silver & Gold against Bahram Zendedel. 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)) (Tabibi, Nico)

fr. 4-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: JUDGMENT ENTERED 11-17-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Danny's Silver Jewelry Inc., a

Represented By  
Nico N Tabibi

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-17062 Shamim Ahemmed**

**Chapter 7**

Adv#: 2:19-01423 Cruz v. Ahemmed

**#5.00** Trial Date Set

RE: [29] **Second Amended** Complaint Objecting to Discharge Pursuant to 11 USC 523 (a)2(A) and (6) by Michael N Berke on behalf of Miguel Hernandez Cruz against Shamim Ahemmed. (Berke, Michael)

Docket 29

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-26-21 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Shamim Ahemmed

Represented By  
Julie J Villalobos

**Defendant(s):**

Shamim Ahemmed

Represented By  
Lawrence R Fieselman  
Julie J Villalobos

**Plaintiff(s):**

Miguel Hernandez Cruz

Represented By  
Michael N Berke

**Trustee(s):**

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

9:00 AM

**2:19-20564 Gregory Tardaguila**

**Chapter 7**

Adv#: 2:19-01503 Tardaguila v. Tardaguila

**#6.00** Trial Date Set

RE: [10] , **Counterclaim** by Gregory Tardaguila against Ann Tardaguila as Trustee of the Tardaguila Living Trust dated 07-16-1999, Ann Tardaguila (Altholz, Andrew)

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 10-25-2021 AT 9:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Gregory Tardaguila

Represented By  
Kevin Tang

**Defendant(s):**

Gregory Tardaguila

Represented By  
Andrew P Altholz

**Plaintiff(s):**

Ann Tardaguila

Represented By  
Eric A Mitnick

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

9:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01001 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

**#7.00 Trial Date Set**

RE: [1] Adversary case 2:20-ap-01001. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, St Vincent Dialysis Center, Inc., a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Seton Medical Center, a California nonprofit public benefit corporation, Verity Holdings, LLC, a California limited liability company against Kali P. Chaudhuri, M.D., an individual, Strategic Global Management, Inc., a California corporation, KPC Healthcare Holdings, Inc., a California Corporation, KPC Health Plan Holdings, Inc., a California Corporation, KPC Healthcare, Inc., a Nevada Corporation, KPC Global Management, LLC, a California Limited Liability Company. (Charge To Estate). Complaint for Breach of Contract, Promissory Fraud, and Tortious Breach of Contract (Breach of Implied Covenant of Good Faith and Fair Dealing) Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Maizel, Samuel)

Docket 1

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 4-3-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Nicholas A Koffroth  
Rosa A Shirley

**Defendant(s):**

Kali P. Chaudhuri, M.D., an	Pro Se
Strategic Global Management, Inc.,	Pro Se
KPC Healthcare Holdings, Inc., a	Pro Se
KPC Health Plan Holdings, Inc., a	Pro Se
KPC Healthcare, Inc., a Nevada	Pro Se
KPC Global Management, LLC, a	Pro Se
Does 1 through 500	Pro Se

**Plaintiff(s):**

VERITY HEALTH SYSTEM OF	Represented By Samuel R Maizel Tania M Moyron
ST. VINCENT MEDICAL	Represented By Samuel R Maizel Tania M Moyron
St Vincent Dialysis Center, Inc., a	Represented By Samuel R Maizel Tania M Moyron
ST. FRANCIS MEDICAL	Represented By Samuel R Maizel Tania M Moyron
Seton Medical Center, a California	Represented By Samuel R Maizel Tania M Moyron
Verity Holdings, LLC, a California	Represented By Samuel R Maizel Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

9:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-18254 Astrid Godoy**

**Chapter 7**

**#100.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 Honda Pilot, VIN: 5FNY F5H5 2LB0 13806 .

Docket 10

**Tentative Ruling:**

11/25/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Astrid Godoy**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Astrid Godoy

Represented By  
Ginger Marcos

**Trustee(s):**

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-19654 Patrick Anthony Diehl**

**Chapter 7**

**#101.00** HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 GMC Sierra 1500, VIN: 3GTP1NEC3JG282563 . (Ith, Sheryl)

Docket 8

**Tentative Ruling:**

11/25/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, November 30, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Patrick Anthony Diehl**

**Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Patrick Anthony Diehl

Represented By  
Sam Benevento

**Trustee(s):**

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-13731 Samuel Antonio Acevedo and Lucy Acevedo**

**Chapter 11**

**#1.00** Hearing  
RE: [144] Post confirmation status conference

fr. 7-22-20; 11-3-20

Docket 144

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-5-20**

**Party Information**

**Debtor(s):**

Samuel Antonio Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**Joint Debtor(s):**

Lucy Acevedo

Represented By  
Lionel E Giron  
Crystle Jane Lindsey  
Joanne P Sanchez

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01299 Verity Health System of California, Inc. v. HealthStream, Inc.

**#2.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01299. Complaint by Verity Health System of California, Inc. against HealthStream, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

HealthStream, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01300 Verity Medical Foundation v. HIM Services, LLC

**#3.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01300. Complaint by Verity Medical Foundation against HIM Services, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

HIM Services, LLC

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01301 Verity Health System of California, Inc. v. Hodges-Mace, LLC, an Alight

**#4.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01301. Complaint by Verity Health System of California, Inc. against Hodges-Mace, LLC, an Alight company. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Hodges-Mace, LLC, an Alight

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01302 Verity Health System of California, Inc. v. Hospital Association of Southern

**#5.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01302. Complaint by Verity Health System of California, Inc. against Hospital Association of Southern California. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Hospital Association of Southern

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01304 Verity Holdings, LLC v. HSS Inc.

**Chapter 11**

**#6.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01304. Complaint by Verity Holdings, LLC  
against HSS Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

HSS Inc.

Pro Se

**Plaintiff(s):**

Verity Holdings, LLC

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01305 Verity Health System of California, Inc. v. Huron Consulting Services LLC

**#7.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01305. Complaint by Verity Health System of California, Inc. against Huron Consulting Services LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-30-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Huron Consulting Services LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01306 Verity Medical Foundation v. Immix Management Services LLC

**#8.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01306. Complaint by Verity Medical Foundation against Immix Management Services LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Immix Management Services LLC

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01307 O'Connor Hospital v. Immucor, Inc.

**#9.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01307. Complaint by O'Connor Hospital against Immucor, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-1-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Immucor, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01308 Verity Medical Foundation v. Imtek Services, LLC

**#10.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01308. Complaint by Verity Medical Foundation against Imtek Services, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Imtek Services, LLC

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01309 Seton Medical Center v. InSite Digestive Health Care

**#11.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01309. Complaint by Seton Medical Center against InSite Digestive Health Care. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

InSite Digestive Health Care

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01310 St. Francis Medical Center v. Interventional Neuroradiology, Inc.

**#12.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01310. Complaint by St. Francis Medical Center against Interventional Neuroradiology, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Interventional Neuroradiology, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01311 St. Vincent Medical Center v. IntraNerve Neuroscience Holdings, LLC

**#13.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01311. Complaint by St. Vincent Medical Center against IntraNerve Neuroscience Holdings, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

IntraNerve Neuroscience Holdings,

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1575 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1575**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01312 Seton Medical Center v. ISI Inspection Services, Inc.

**#14.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01312. Complaint by Seton Medical Center against ISI Inspection Services, Inc. Services, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

ISI Inspection Services, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1668 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1668**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01313 St. Francis Medical Center v. J L and J Inc.

**#15.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01313. Complaint by St. Francis Medical Center against J L and J Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

J L and J Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01314 St. Francis Medical Center v. J.A. Neurodiagnostics Medical Services, Inc.

**#16.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01314. Complaint by St. Francis Medical Center against J.A. Neurodiagnostics Medical Services, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 AM.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

J.A. Neurodiagnostics Medical

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1668 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1668**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01315 O'Connor Hospital v. Bielski

**#17.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01315. Complaint by O'Connor Hospital against Jamie Ann Bielski. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-17-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Jamie Ann Bielski

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01316 Seton Medical Center v. JD Supplies

**#18.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01316. Complaint by Seton Medical Center against JD Supplies. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-21-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

JD Supplies

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01317 O'Connor Hospital v. Jet Medical Electronics, Inc.

**#19.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01317. Complaint by O'Connor Hospital against Jet Medical Electronics, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Jet Medical Electronics, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01318 Seton Medical Center v. Velyvis, M.D.

**#20.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01318. Complaint by Seton Medical Center against John H. Velyvis, M.D.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

John H. Velyvis, M.D.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 1, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01319 St. Vincent Medical Center v. Jorge Estuardo Carrillo

**#21.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01319. Complaint by St. Vincent Medical Center against Jorge Estuardo Carrillo. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-19-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Jorge Estuardo Carrillo

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01320 Seton Medical Center v. Jubilant Draximage RadioPharmacies Inc.

**#22.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01320. Complaint by Seton Medical Center against Jubilant Draximage RadioPharmacies Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Jubilant Draximage

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01321 St. Vincent Medical Center v. Kand Medical, Inc.

**#23.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01321. Complaint by St. Vincent Medical Center against Kand Medical, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Kand Medical, Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01322 Verity Business Services v. Law Offices of Stephenson, Acquisto & Colman,

**#24.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01322. Complaint by Verity Business Services against Law Offices of Stephenson, Acquisto & Colman, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Law Offices of Stephenson,

Pro Se

**Plaintiff(s):**

Verity Business Services

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01323 St. Louise Regional Hospital v. LEARN Speech Therapy

**#25.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01323. Complaint by St. Louise Regional Hospital against LEARN Speech Therapy. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 AM.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

LEARN Speech Therapy

Pro Se

**Plaintiff(s):**

St. Louise Regional Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01324 Verity Health System of California, Inc. v. Life Insurance Company of North

**#26.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01324. Complaint by Verity Health System of California, Inc. against Life Insurance Company of North America. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Life Insurance Company of North

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01325 St. Francis Medical Center v. LifeNet Health, Inc.

**#27.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01325. Complaint by St. Francis Medical Center against LifeNet Health, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-7-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

LifeNet Health, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01326 St. Francis Medical Center v. Linde Gas North America LLC

**#28.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01326. Complaint by St. Francis Medical Center against Linde Gas North America LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-17-20**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Linde Gas North America LLC

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01327 Verity Health System of California, Inc. v. LinkedIn Corporation

**#29.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01327. Complaint by Verity Health System of California, Inc. against LinkedIn Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

LinkedIn Corporation

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01328 Verity Health System of California, Inc. v. Lipton Research and Analytics

**#30.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01328. Complaint by Verity Health System of California, Inc. against Lipton Research and Analytics LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Lipton Research and Analytics LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 1, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01329 Seton Medical Center v. LivaNova USA, Inc.

**#31.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01329. Complaint by Seton Medical Center against LivaNova USA, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

LivaNova USA, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01330 O'Connor Hospital v. Luminex Corporation

**#32.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01330. Complaint by O'Connor Hospital against Luminex Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-1-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Luminex Corporation

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01331 Verity Health System of California, Inc. v. LVM Systems, Incorporated

**#33.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01331. Complaint by Verity Health System of California, Inc. against LVM Systems, Incorporated. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-21**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

LVM Systems, Incorporated

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01332 Verity Medical Foundation v. M/S Surgery Center, LLC

**#34.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01332. Complaint by Verity Medical Foundation against M/S Surgery Center, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-15-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

M/S Surgery Center, LLC

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 1, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01333 St. Francis Medical Center v. Maternal-Fetal Medicine Associates, A

**#35.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01333. Complaint by St. Francis Medical Center against Maternal-Fetal Medicine Associates, A Medical Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

\*\*\* VACATED \*\*\* REASON: DISMISSED 11-24-20

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Maternal-Fetal Medicine Associates,

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 1, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01334 Seton Medical Center v. Maxim Healthcare Services, Inc.

**#36.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01334. Complaint by Seton Medical Center against Maxim Healthcare Services, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Maxim Healthcare Services, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01335 St. Louise Regional Hospital v. Baxalta US Inc.

**#37.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01335. Complaint by St. Louise Regional Hospital against Baxalta US Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-21-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Baxalta US Inc.

Pro Se

**Plaintiff(s):**

St. Louise Regional Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01336 Verity Medical Foundation v. Healthpeak Properties, Inc.

**#38.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01336. Complaint by Verity Medical Foundation against Healthpeak Properties, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-7-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Healthpeak Properties, Inc.

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01337 Verity Medical Foundation v. McKesson Medical-Surgical Inc.

**#39.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01337. Complaint by Verity Medical Foundation against McKesson Medical-Surgical Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-3-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

McKesson Medical-Surgical Inc.

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 1, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01338 Verity Medical Foundation v. McKesson Specialty Distribution LLC

**#40.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01338. Complaint by Verity Medical Foundation against McKesson Specialty Distribution LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

\*\*\* VACATED \*\*\* REASON: DISMISSED 9-3-20

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

McKesson Specialty Distribution

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01339 Saint Louise Regional Hospital v. MedSource, L.L.C.

**#41.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01339. Complaint by Saint Louise Regional Hospital Foundation against MedSource, L.L.C.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

MedSource, L.L.C.

Pro Se

**Plaintiff(s):**

Saint Louise Regional Hospital

Represented By

Tania M Moyron

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01340 Verity Health System of California, Inc. v. MD Insider, Inc.

**#42.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01340. Complaint by Verity Health System of California, Inc. against MD Insider, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

MD Insider, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01341 St. Vincent Medical Center v. Medacta USA, Inc.

**#43.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01341. Complaint by St. Vincent Medical Center against Medacta USA, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Medacta USA, Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01342 Verity Medical Foundation v. Medical Anesthesia Consultants Medical

**#44.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01342. Complaint by Verity Medical Foundation against Medical Anesthesia Consultants Medical Group, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Medical Anesthesia Consultants

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01343 St. Francis Medical Center v. Medical Electronics, Inc.

**#45.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01343. Complaint by St. Francis Medical Center against Medical Electronics, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Medical Electronics, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01344 Verity Health System of California, Inc. v. Medical Innovations Incorporated

**#46.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01344. Complaint by Verity Health System of California, Inc. against Medical Innovations Incorporated. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Medical Innovations Incorporated

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01345 St. Francis Medical Center v. Medical Solutions, Inc.

**#47.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01345. Complaint by St. Francis Medical Center against Medical Solutions, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Medical Solutions, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01346 Verity Health System of California, Inc. v. Medicity LLC

**#48.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01346. Complaint by Verity Health System of California, Inc. against Medicity LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-23-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Medicity LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01348 Seton Medical Center v. Metropolitan Electrical Construction Inc.

**#49.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01348. Complaint by Seton Medical Center against Metropolitan Electrical Construction Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-17-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Metropolitan Electrical Construction

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 1, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01349 O'Connor Hospital v. MGA Home Healthcare, L.L.C.

**#50.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01349. Complaint by O'Connor Hospital against MGA Home Healthcare, L.L.C.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

MGA Home Healthcare, L.L.C.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, December 2, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-21593 C & F Sturm, LLC**

**Chapter 11**

**#1.00** Hearing  
RE: [49] Motion for order confirming chapter 11 plan of Liquidation

fr. 7-15-20; 10-21-20

Docket 49

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 11-20-20**

**Party Information**

**Debtor(s):**

C & F Sturm, LLC

Represented By  
Stella A Havkin



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-17843 Berger Bros., Inc.**

**Chapter 7**

**#1.00** HearingRE: [114] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: . (Lee, David)

Docket 114

**Tentative Ruling:**

12/3/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2) . The failure of the debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The motion is granted pursuant to 11 U.S.C. § 362(d)(1) to permit movant to proceed under applicable non-bankruptcy law to enforce its remedies to proceed to final judgment in the non-bankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or estate property. The claim is insured. Movant may seek recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or estate property.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**     **Berger Bros., Inc.**  
Code. All other relief is denied.

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Berger Bros., Inc.

Represented By  
Dean G Rallis Jr

**Trustee(s):**

Heide Kurtz (TR)

Represented By  
Timothy J Yoo  
Carmela Pagay

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-17994 Samantha Monique Jara Villegas**

**Chapter 7**

**#2.00** HearingRE: [9] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: .

Docket 9

**Tentative Ruling:**

12/3/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2) . The failure of the debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The motion is granted pursuant to 11 U.S.C. § 362(d)(1) to permit movant to proceed under applicable non-bankruptcy law to enforce its remedies to proceed to final judgment in the non-bankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or estate property. The claim is insured. Movant may seek recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or estate property.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Samantha Monique Jara Villegas**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Samantha Monique Jara Villegas

Represented By

Gregory M Shanfeld

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 7, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-19385 Dynamic Software Design, Inc.**

**Chapter 7**

**#3.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: .

Docket 11

**Tentative Ruling:**

12/3/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1). The stay is terminated as to the Debtor and the Debtor's bankruptcy estate with respect to the Movant, its successors, transferees and assigns. Movant may enforce its remedies to obtain possession of the property in accordance with applicable law, but may not pursue a deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

The Movant filed an unlawful detainer action on August 30, 2020.

This Motion has been filed to allow the Movant to proceed with the unlawful detainer proceeding in state court. The unlawful detainer proceeding may go forward because the Debtor's right to possess the premises must be determined. This does not

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 7, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Dynamic Software Design, Inc. Chapter 7**

change simply because a bankruptcy petition was filed. See In re Butler, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002).

This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Dynamic Software Design, Inc.

Represented By  
James D. Hornbuckle

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-11284 Damu Vusha and Akiba Vusha**

**Chapter 11**

**#1.00** Post-Confirmation Status Conference

fr. 11-19-19; 3-18-20; FR. 3-31-20; 6-2-20

Docket 156

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-7-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Damu Vusha

Represented By  
Michael Jay Berger

**Joint Debtor(s):**

Akiba Vusha

Represented By  
Michael Jay Berger

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01350 Verity Health System of California, Inc. v. Microsoft Corporation

**#2.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01350. Complaint by Verity Health System of California, Inc. against Microsoft Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Microsoft Corporation

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1639**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01351 Verity Medical Foundation v. MIREF Century, LLC

**#3.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01351. Complaint by Verity Medical Foundation against MIREF Century, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-17-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

MIREF Century, LLC

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**  
Adv#: 2:20-01352 Verity Medical Foundation v. Alhasan

**Chapter 11**

**#4.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01352. Complaint by Verity Medical Foundation against Mohammad S. Alhasan. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-16-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

Mohammad S. Alhasan

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01353 Seton Medical Center v. Montgomery Corporation

**#5.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01353. Complaint by Seton Medical Center against Montgomery Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-5-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Montgomery Corporation

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01354 Verity Health System of California, Inc. v. MoreDirect, Inc.

**#6.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01354. Complaint by Verity Health System of California, Inc. against MoreDirect, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

MoreDirect, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01355 Verity Medical Foundation v. NCMB No. 3, LLC

**#7.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01355. Complaint by Verity Medical Foundation against NCMB No. 3, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

NCMB No. 3, LLC

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01356 Seton Medical Center v. Nehi Construction, Inc.

**#8.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01356. Complaint by Seton Medical Center against Nehi Construction, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Nehi Construction, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01357 St. Vincent Medical Center v. NeoGenomics Laboratories, Inc.

**#9.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01357. Complaint by St. Vincent Medical Center against NeoGenomics Laboratories, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

NeoGenomics Laboratories, Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01358 Verity Medical Foundation v. Neuroscience Institute of Northern California

**#10.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01358. Complaint by Verity Medical Foundation against Neuroscience Institute of Northern California. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-16-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Neuroscience Institute of Northern

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01359 Verity Medical Foundation v. Monaco, MD

**#11.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01359. Complaint by Verity Medical Foundation against Nicholas Brian Monaco, MD. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-15-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Nicholas Brian Monaco, MD

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01360 Verity Health System of California, Inc. v. NThrive Solutions, Inc.

**#12.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01360. Complaint by Verity Health System of California, Inc. against NThrive Solutions, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

NThrive Solutions, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01361 Verity Health System of California, Inc. v. NTT DATA Services, LLC

**#13.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01361. Complaint by Verity Health System of California, Inc. against NTT DATA Services, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-24-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

NTT DATA Services, LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1575 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1575**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01362 Seton Medical Center v. Omnicell, Inc.

**#14.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01362. Complaint by Seton Medical Center against Omnicell, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Omnicell, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01363 St. Vincent Medical Center v. OneLegacy

**#15.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01363. Complaint by St. Vincent Medical Center against OneLegacy. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-7-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

OneLegacy

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01364 Verity Health System of California, Inc. v. Opsgenie, Inc.

**#16.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01364. Complaint by Verity Health System of California, Inc. against Opsgenie, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-16-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Opsgenie, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1639 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1639**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01365 Verity Medical Foundation v. Orthosport Inc.

**#17.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01365. Complaint by Verity Medical Foundation against Orthosport Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-16-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Orthosport Inc.

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01366 St. Vincent Medical Center v. Oticon Medical LLC

**#18.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01366. Complaint by St. Vincent Medical Center against Oticon Medical LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-27-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Oticon Medical LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 8, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01367 Seton Medical Center v. Pacific Cardiovascular Surgeons, A Medical

**#19.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01367. Complaint by Seton Medical Center against Pacific Cardiovascular Surgeons, A Medical Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

\*\*\* VACATED \*\*\* REASON: DISMISSED 10-21-20

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Pacific Cardiovascular Surgeons, A

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01368 St. Vincent Medical Center v. Pacific Coast Perfusion Group

**#20.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01368. Complaint by St. Vincent Medical Center against Pacific Coast Perfusion Group. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-15-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Pacific Coast Perfusion Group

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01369 St. Francis Medical Center v. Pallickal, Mallik, Ponnezhan Medical

**#21.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01369. Complaint by St. Francis Medical Center against Pallickal, Mallik, Ponnezhan Medical Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-5-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Pallickal, Mallik, Ponnezhan

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01370 Saint Louise Regional Hospital v. Paragon Mechanical, Inc.

**#22.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01370. Complaint by Saint Louise Regional Hospital Foundation against Paragon Mechanical, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-15-20**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Paragon Mechanical, Inc.

Pro Se

**Plaintiff(s):**

Saint Louise Regional Hospital

Represented By

Tania M Moyron

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 8, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01371 Verity Health System of California, Inc. v. Parker Brown, Inc.

**#23.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01371. Complaint by Verity Health System of California, Inc. against Parker Brown, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Parker Brown, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01372 St. Vincent Medical Center v. Parlution Medical, LLC

**#24.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01372. Complaint by St. Vincent Medical Center against Parlution Medical, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-15-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

Parlution Medical, LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01373 Verity Business Services v. Patient Accounting Service Center, LLC

**#25.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01373. Complaint by Verity Business Services against Patient Accounting Service Center, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Patient Accounting Service Center,

Pro Se

**Plaintiff(s):**

Verity Business Services

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01374 Verity Holdings, LLC v. People 2.0 Global, LLC

**#26.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01374. Complaint by Verity Holdings, LLC  
against People 2.0 Global, LLC. (14 (Recovery of money/property - other))  
(Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-25-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

People 2.0 Global, LLC

Pro Se

**Plaintiff(s):**

Verity Holdings, LLC

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01375 St. Francis Medical Center v. Pepperdine University

**#27.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01375. Complaint by St. Francis Medical Center against Pepperdine University. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Pepperdine University

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01376 Verity Medical Foundation v. Personal Telephone Answering Service

**#28.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01376. Complaint by Verity Medical Foundation against Personal Telephone Answering Service. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Personal Telephone Answering

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01377 Verity Health System of California, Inc. v. Phillips DiPisa & Associates. Inc.

**#29.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01377. Complaint by Verity Health System of California, Inc. against Phillips DiPisa & Associates. Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Phillips DiPisa & Associates. Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01378 St. Francis Medical Center v. Photon Physics Services

**#30.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01378. Complaint by St. Francis Medical Center against Photon Physics Services. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-25-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Photon Physics Services

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01379 Verity Health System of California, Inc. v. Picis Clinical Solutions, Inc.

**#31.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01379. Complaint by Verity Health System of California, Inc. against Picis Clinical Solutions, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Picis Clinical Solutions, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01380 Verity Medical Foundation v. Pinnacle Brokers Insurance Solutions, LLC

**#32.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01380. Complaint by Verity Medical Foundation against Pinnacle Brokers Insurance Solutions, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Pinnacle Brokers Insurance

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01381 Verity Health System of California, Inc. v. Press Ganey Associates LLC

**#33.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01381. Complaint by Verity Health System of California, Inc. against Press Ganey Associates LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-15-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Press Ganey Associates LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01382 Verity Health System of California, Inc. v. Print Media Collective, Inc.

**#34.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01382. Complaint by Verity Health System of California, Inc. against Print Media Collective, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-1-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Print Media Collective, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01383 Verity Medical Foundation v. Priority Healthcare Distribution, Inc.

**#35.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01383. Complaint by Verity Medical Foundation against Priority Healthcare Distribution, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Priority Healthcare Distribution, Inc.

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01384 St. Francis Medical Center v. Proprietary Access Control Enterprises, Inc

**#36.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01384. Complaint by St. Francis Medical Center against Proprietary Access Control Enterprises, Inc. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Proprietary Access Control

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01385 Seton Medical Center v. Protocol Agency, Inc.

**#37.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01385. Complaint by Seton Medical Center against Protocol Agency, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Protocol Agency, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01386 St. Vincent Medical Center v. Providence Medical Institute

**#38.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01386. Complaint by St. Vincent Medical Center against Providence Medical Institute. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Providence Medical Institute

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01387 Seton Medical Center v. Providence Medical Technology, Inc.

**#39.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01387. Complaint by Seton Medical Center against Providence Medical Technology, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Providence Medical Technology,

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01388 Verity Health System of California, Inc. v. Quadramed Corporation

**#40.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01388. Complaint by Verity Health System of California, Inc. against Quadramed Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Quadramed Corporation

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01389 Verity Health System of California, Inc. v. Quest Diagnostics Clinical

**#41.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01389. Complaint by Verity Health System of California, Inc. against Quest Diagnostics Clinical Laboratories, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Quest Diagnostics Clinical

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01390 Verity Medical Foundation v. Quest Diagnostics Incorporated

**#42.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01390. Complaint by Verity Medical Foundation against Quest Diagnostics Incorporated. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Quest Diagnostics Incorporated

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01391 Verity Medical Foundation v. Questivity, Inc.

**#43.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01391. Complaint by Verity Health System of California, Inc. against Questivity, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Questivity, Inc.

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Tania M Moyron

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01392 St. Francis Medical Center v. R. F. MacDonald Co.

**#44.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01392. Complaint by St. Francis Medical Center against R. F. MacDonald Co.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

R. F. MacDonald Co.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01393 Verity Business Services v. R.M. Galicia, Inc.

**#45.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01393. Complaint by Verity Business Services against R.M. Galicia, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

R.M. Galicia, Inc.

Pro Se

**Plaintiff(s):**

Verity Business Services

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01394 St. Vincent Medical Center v. RadAdvantage, a Professional Corporation,

**#46.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01394. Complaint by St. Vincent Medical Center against RadAdvantage, a Professional Corporation, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

RadAdvantage, a Professional

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01395 Saint Louise Regional Hospital v. Rayon-X Engineering, LLC

**#47.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01395. Complaint by Saint Louise Regional Hospital against Rayon-X Engineering, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-20-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Rayon-X Engineering, LLC

Pro Se

**Plaintiff(s):**

Saint Louise Regional Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01396 St. Francis Medical Center v. Reginald J. Jones, M.D., F.A.C.S., Inc.

**#48.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01396. Complaint by St. Francis Medical Center against Reginald J. Jones, M.D., F.A.C.S., Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Reginald J. Jones, M.D., F.A.C.S.,

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01397 St. Francis Medical Center v. Reliable Properties

**#49.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01397. Complaint by St. Francis Medical Center against Reliable Properties. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Reliable Properties

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01398 Verity Medical Foundation v. Retina-Vitreous Associates, Inc.

**#50.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01398. Complaint by Verity Medical Foundation against Retina-Vitreous Associates, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-16-21 AT 10:00 A.M.**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Retina-Vitreous Associates, Inc.

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 8, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01399 Verity Medical Foundation v. Richard P. Carr, Physical Therapy, Inc.

**#51.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01399. Complaint by Verity Medical Foundation against Richard P. Carr, Physical Therapy, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-17-20**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Richard P. Carr, Physical Therapy,

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, December 9, 2020

Hearing Room 1568

10:00 AM

**2:18-11909 Raymond Express International,LLC**

**Chapter 7**

**#1.00 Hearing**

RE: [145] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Motion of Chapter 7 Trustee for An Order Approving the Sale of Certain Assets of the Debtor's Estate Free and Clear of Liens, Claims, Interests, and Encumbrances Pursuant to 11 U.S.C. §§ 105 and 363 and Related Relief

Docket 145

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 12-3-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Raymond Express International,LLC

Represented By  
Jose-Manuel A DeCastro  
Jonathan N Helfat

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Marsha A Houston  
Steven Werth  
Mark S Horoupian

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, December 9, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#2.00 Hearing

RE: [6144] Motion for Allowance of Administrative Expense Claim and Request for Payment under 11 U.S.C. § 503(b) (Reynolds, Michael)

Docket 6144

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-16-20 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, December 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11634 XLmedica, Inc.**

**Chapter 11**

**#3.00** HearingRE: [50] Application for Compensation First Interim Application by Resnik Hayes Moradi LLP, General Bankruptcy Counsel for the Debtor, for Allowance of Fees for the Period February 13, 2020 Through October 21, 2020; Declarations of Anna Stahl and Roksana D. Moradi-Brovia in Support Thereof, with Proof of Service for Roksana D. Moradi-Brovia, Debtor's Attorney, Period: 2/13/2020 to 10/21/2020, Fee: \$24,821.50, Expenses: \$0.00.

Docket 50

**Tentative Ruling:**

12/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$24,821.50 [*see* Doc. No. 50] (the Applicant is authorized payment of the full amount, less the retainer received of \$21,171.00)

Expenses: \$0.00 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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10:00 AM

**CONT... XLmedica, Inc.**

**Chapter 11**

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

**Debtor(s):**

XLmedica, Inc.

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, December 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-11634 XLmedica, Inc.**

**Chapter 11**

**#4.00** HearingRE: [51] Application for Compensation First Interim Application by Callagy Law, P.C., Special Counsel for the Debtor, for Allowance of Fees and Reimbursement of Costs for the Period June 19, 2020 Through October 30, 2020; Declarations of Anna Stahl and Michael J. Smikun in Support Thereof, with Proof of Service for Roksana D. Moradi-Brovia, Special Counsel, Period: 6/19/2020 to 10/30/2020, Fee: \$70,107.00, Expenses: \$960.95.

Docket 51

**Tentative Ruling:**

12/8/2020

See calendar number 5, incorporated by reference in full.

<b>Party Information</b>
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**Debtor(s):**

XLmedica, Inc.

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, December 9, 2020

Hearing Room 1568

10:00 AM

2:20-11634 XLmedica, Inc.

Chapter 11

**#5.00** HearingRE: [55] Application for Compensation First Interim Application by Callagy Law, P.C., Special Counsel for the Debtor, for Allowance of Fees and Reimbursement of Costs for the Period June 19, 2020 Through October 30, 2020; Declarations of Anna Stahl and Michael J. Smikun in Support Thereof, with Proof of Service (REUPLOADED WITH CORRECT PDF) for Roksana D. Moradi-Brovia, Special Counsel, Period: 6/19/2020 to 10/30/2020, Fee: \$70,107.00, Expenses: \$960.95.

Docket 55

**Tentative Ruling:**

12/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Fee Application is **GRANTED** as follows:

1. The Applicants are awarded \$70,107.00 in fees and \$960.95 in costs, less the Retainer received of \$20,000.00.

**Pleadings Filed and Reviewed**

1. Emcyte Corp.'s Objection to Professional Fee Statement of Callagy Law, P.C. and to the Draw Down of Any Retainer [Doc. No. 42]
2. Notice to Professionals to File Fee Applications [Doc. No. 43]
3. Emcyte Corp.'s Amended Objection to Professional Fee Statement of Callagy Law, P.C. and to the Draw Down of Any Retainer (the "Objection") [Doc. No. 44]
4. Notice of Hearing on Professional Fee Statement for Callagy Law, P.C., Special Counsel for the Debtor [Doc. No. 47]
5. Notice of Hearing on: (a) First Interim Application by Resnik Hayes Moradi LLP, General Bankruptcy Counsel for the Debtor, for Allowance of Fees for the Period February 13, 2020 Through October 21, 2020; (b)

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Los Angeles  
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CONT...

**XLmedica, Inc.**

**Chapter 11**

- First Interim Application by Callagy Law, P.C., Special Counsel for the Debtor, for Allowance of Fees and Reimbursement of Costs for the Period June 19, 2020 Through October 30, 2020 ("Notice of Hearing") [Doc. No. 52]
6. First Interim Application by Callagy Law, P.C. Special Counsel for the Debtor, for Allowance of Fees and Reimbursement of Costs for the Period June 19, 2020 Through October 30, 2020; Declarations of Anna Stahl and Michael J. Smikun in Support Thereof (the "Fee Application") [Doc. No. 55]
  7. Debtor's Reply to EmCyte Corp.'s Amended Objection to Professional Fee Statement of Callagy Law, P.C. and to the Draw Down of Any Retainer; Declaration of Brian A. Williamson in Support Thereof (the "Reply") [Doc. No. 57]

### **I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession XLmedica, Inc. (the "Debtor") filed a voluntary chapter 11 petition on February 13, 2020. The Debtor is a medical supply distribution company specializing in regenerative medicine. On June 26, 2020, the Debtor filed an Application to Employ Michael J. Smikun and Callagy Law, P.C. as Special Counsel (the "Application;" the "Applicants") to represent the Debtor with certain breach of contract and trademark infringement cases pending in Florida. *See* Application [Doc. No. 34]. In the Application, the Applicants note that payment will be made pursuant to an "initial retainer agreement," and that the Applicants will comply with the US Trustee's *Guide to Application for Retainers and Professional and Insider Compensation* ("Compensation Guide"). *Id.* at 6; *see also* U.S. DEPARTMENT OF JUSTICE, United States Trustee: Central District of California, *Guide to Applications for Retainers, and Professional and Insider Compensation* (April 2008), [https://www.justice.gov/sites/default/files/ust-regions/legacy/2011/07/13/ch11\\_guide\\_insider\\_compensation.pdf](https://www.justice.gov/sites/default/files/ust-regions/legacy/2011/07/13/ch11_guide_insider_compensation.pdf). The Applicants go on to state that the "fees and costs will be paid by the Debtor, once permitted by this Court. The source of funds will be the Debtor's income from its business operations . . . ." *Id.* at 8.

The retainer agreement signed between the Applicants and Debtor states: "[i]n consideration of Law Firm's performance of Services, Clients will pay Law Firm an Initial engagement fee in the amount of \$20,000.00 [the "Retainer"]. Services shall be billed against this retainer." *Id.* at 20 ¶ 4. Later on in the agreement it states:



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Chapter 11

The entire [Retainer] will be placed into Law Firm's Clients trust account. In accordance with Section 4, Law Firm will draw down on the retainer as allowed by the Central District Local Bankruptcy Rules and the U.S. Trustee. This means that Law Firm will prepare and file a ["Professional Fee Statement"] at the end of each month and ask that your Chapter 11 or Chapter 13 counsel serve it as required. If no creditors object and you do not object, Law Firm will remove the amount of the fees for the month until the [Retainer] is gone."

*Id.* at 21 ¶ 8. There were no objections to the Application. On August 18, 2020, the Court approved the Application in its entirety. *See* Order Granting Application [Doc. No. 38].

The Applicants now request \$70,107.00 in fees and \$960.95 in costs, less the Retainer received of \$20,000.00.

**A. EmCyte's Objection**

On October 13, 2020, the Debtor served the Applicant's Professional Fee Statement on EmCyte Corporation ("EmCyte") via US Mail and without any detailed attachments. Objection at ¶¶ 6-7. EmCyte received the documents on October 20, but did not receive the attachments, including detailed fee documentation, until October 22. *Id.* at ¶ 7. The Professional Fee Statement purported to be for the month of October 2020 and read: "[f]ees and costs will be withdrawn from the trust account in the amount stated in item 7 above unless an objection is filed with the clerk of court and served on the professional named above within 10 days from the date of service of this statement." Ex. A to Objection. By EmCyte's calculations, they had just one day to review the Professional Fee Statement and lodge an objection. Objection at ¶ 7. EmCyte filed its Objection on October 23, 2020.

EmCyte's objections are fourfold. First, EmCyte argues that the Court never authorized the Retainer. While the Application mentions a Retainer, the order from this Court does not specifically mention as such. *See* Order Granting Application. Second, even if the Retainer was authorized, EmCyte claims that the monthly Professional Fee Statements as required by the US Trustee's Compensation Guide were never served upon the US Trustee or EmCyte. Objection at 6. In addition, EmCyte notes that although the Applicants did send a Professional Fee Statement for

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Central District of California  
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CONT... **XLmedica, Inc.**

Chapter 11

October 2020, that fee statement actually covered services from June 5 through August 31, 2020. *Id.* Third, EmCyte argues that "many of the specific time entries are duplicative and involve a large number of entries for attorney communications with paralegals, which are objectionable." *Id.* at 7. Fourth and finally, EmCyte "reserves the right to raise further objections to the Fee Statement, including that the services do not benefit the Estate, at a later date," because it had so little time to review the Professional Fee Statement. *Id.*

**B. The Debtor's Reply**

On December 2, 2020, the Debtor filed its Reply. The Debtor argues that the Applicants did in fact correctly request the Retainer in their Application as well as the engagement letter between the Debtor and the Applicants. The Debtor asserts that all federal and local rules were correctly followed. Furthermore, the Debtor states that, while the Court's order approving the Application did not specifically state that the Retainer was approved, the Court did approve the entire Application without reservation. *See Reply* at 3-4.

Next, the Debtor argues that the Professional Fee Statement was timely served. The Application was approved by this Court on August 18, 2020, and the Applicants received the \$20,000.00 post-petition Retainer on September 10, 2020. Therefore, the Applicants could not have submitted Professional Fee Statements for June, July, August, or September, because they had not yet received the Retainer. They argue that the first Professional Fee Statement they submitted on October 13, 2020 was timely. *Id.* at 5.

Finally, the Debtor requests that this Court sanction EmCyte because it claims that EmCyte filed its Objection "in bad faith to harass the debtor, improperly increase fees in the litigation and oppress Callagy." *Id.* The Debtor argues that this Objection was merely brought to "deplete its financial ability to defend itself in the litigation cases" that are currently pending in Florida state and federal court. *Id.* at 7. The Debtor then discusses a number of contentious matters that have taken place in the Middle District of Florida proceedings, arguing that "litigation is not cheap" and the extensive objections and voluminous discovery requests by EmCyte in these other cases is proof that EmCyte is harassing the Debtor and its principal. Finally, the Debtor makes the argument that it was EmCyte's obligation to set this hearing and yet it did not do so.

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CONT... XLmedica, Inc.

Chapter 11

## II. Findings of Fact and Conclusions of Law

### A. The Retainer Draw Down

The first issue presented is regarding the Retainer of \$20,000.00 and the draw down by the Applicants. The Application did in fact make reference to the \$20,000.00 Retainer. *See* Application at 6 & 21 ¶ 8. In fact, the Application specifically mentions that the Applicants will comply with the US Trustee requirements of monthly reporting. Application at 21 ¶ 8. That the order issued by this Court does not specifically mention that a Retainer existed is of no consequence because this Court approved of the Application explicitly. *See* Order Granting Application ("The Motion is **GRANTED**").

Furthermore, EmCyte's contention that Callagy failed to make its monthly reports lacks merit because Callagy did not receive the Retainer until September 10, 2020. Reply at 5. The Compensation Guide states:

Any professional who has received a pre-petition or post-petition retainer must submit to the United States Trustee a monthly Professional Fee Statement (Form USTLA-6) no later than the 20th day after the end of the month during which professional services were rendered, together with documentation supporting the charges for the professional expenses in the form required for professional fee applications by applicable law.

Compensation Guide at I. B. 1. According to the plain language of the Compensation Guide, the Debtor had until October 20, 2020 to submit the Applicants' Professional Fee Statement. The Debtor submitted its Professional Fee Statement on October 13, 2020. Although the Debtor may have not included certain required attachments, the Debtor remedied that problem and provided the requisite detailed entries. It would have been impossible for the Debtor to somehow submit the Applicants' Professional Fee Statements for months where its Application had not been approved or where it had not yet received the Retainer. Therefore, EmCyte's objection as to the Retainer and the Professional Fee Statements is overruled.

However, even if this Court had concluded that the retainer was not authorized or the Debtor failed to provide the requisite Professional Fee Statements, that issue would be mooted by the fact that this Court is now reviewing the Applicants' Fee Application. The \$20,000.00 retainer was meant to be used as a draw down without Court approval, subject to no objections. Given that there was an objection, it was

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**Chapter 11**

appropriate for the Applicants to submit their Fee Application for approval by this court, rather than the alternative, which would have been to draw down on the Retainer.

Therefore, because no draw down occurred, the Court will now review the Applicants' Fee Application for payment pursuant to 11 U.S.C. § 327.

**B. The Fee Application**

EmCyte's next argument is that it objects to the Fee Application because: 1) the fee statement that it received on October 20/22, 2020 sought payment for services rendered starting June 5, 2020, rather than the effective date of employment, which is June 19, 2020; and 2) "many of the specific time entries are duplicative and involve a large number of entries for attorney communications with paralegals, which are objectionable." Objection at 7.

The Debtor properly noted that the Applicants' first Professional Fee Statement that they mailed to EmCyte included work done before the effective date of employment. Therefore, in their Fee Application, they subtracted the fees for all work done between June 5 and June 18, 2020. The amounts requested by the Applicants are correct.

11 U.S.C. § 330(a)(1) allows the Court to award "reasonable compensation for actual, necessary services rendered" by a professional. In determining the amount of compensation to award, the Court considers the:

nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is

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**XLmedica, Inc.**

**Chapter 11**

board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and  
(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3).

EmCyte's allegations of "duplicative" time entries and "communications with paralegals" are vague and conclusory. It points to no specific work or time entries that it objects to. It appears to this Court that the Applicants' work for the Debtor has been significant: 140 discovery demands to the Debtor and an equal number to its principal officer that have been "highly contentious and ha[ve] led to a multitude of email and phone conversations with opposing counsel in efforts to resolve those disagreements." Fee Application at 7-8. According to the Debtor and as is evident by the docket sheet in this case, "[n]early every action taken on behalf of the Debtor has been opposed by EmCyte, necessitating a considerable expenditure of time and resources." *Id.* at 8. It appears as though the work done for the Debtor and its principal executive has been necessary and beneficial to the estate.

Furthermore, EmCyte attempts to "reserve[]" the right to raise further objections to the Fee Statement, including that the services do not benefit the Estate, at a later date." Objection at 7. While the Court understands that EmCyte had very little time to review the Professional Fee Statement with regards to the Retainer, EmCyte appears to be conflating two issues. It timely made its Objection to the draw down in the Professional Fee Statement, as was required within ten days. However, its objection to the Fee Application was due 14 days before the hearing – November 25, 2020. This is made clear by Local Bankruptcy Rule 9013-1(f)(1), the Applicants' Fee Application ("Any response or opposition must be filed with the Court and served on the Debtor' counsel at least 14-days prior to the scheduled hearing date on the Application"), and the Notice of Hearing ("Any response or opposition must be filed with the Court and served on the Debtor' counsel at least 14-days prior to the scheduled hearing date on the Application"). An objecting party may not simply "reserve rights" to object for as long as it wishes when the local rules are clear.

**C. The Sanctions**

Finally, the Debtor contends that EmCyte's conduct amounts to harassment, its

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CONT... **XLmedica, Inc.**

**Chapter 11**

Objection is without merit, and the Objection was filed in bad faith. "[B]ankruptcy courts have the inherent power to sanction vexatious conduct presented before the court." *In re Rainbow Magazine, Inc.*, 77 F.3d 278, 284 (9th Cir. 1996).

The Court cautions the Debtor against any further request for sanctions, as the Court looks with disfavor upon such requests. It is evident from the Debtor's extensive argument and exhibits that the issues at stake between the parties are highly contentious and have not been straightforward. However, in many respects, that is the nature of litigation. Requests for sanctions are seldom an appropriate means of advancing a party's position in the litigation. The Court will impose sanctions only if all procedural requirements have been fastidiously complied with, and then only if the party against whom sanctions are sought has engaged in *egregiously* improper conduct. Filing an objection to a retainer draw down does not come anywhere near this standard. Furthermore, EmCyte's conduct in litigation outside of this district bears little relevance to whether this Court will impose sanctions. In addition, it was the Applicants' and the Debtor's obligation, not EmCyte's, to set this matter for hearing. The Debtor's request for sanctions is denied.

### **III. Conclusion**

For the reasons set forth above, the Fee Application is GRANTED and the request for sanctions is DENIED.

The Applicants shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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Central District of California  
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10:00 AM

**CONT... XLmedica, Inc.**

**Chapter 11**

**Debtor(s):**

XLmedica, Inc.

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Wednesday, December 9, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14485 Michael Stuart Brown**

**Chapter 11**

**#6.00** Hearing  
RE: [78] Application for Compensation Notice of Motion and Motion for:  
Application for Payment of Interim Fees and/or Expenses for Michael F Chekian,  
Debtor's Attorney, Period: 7/1/2020 to 10/5/2020, Fee: \$8,581.25, Expenses:  
\$2,196.00.

Docket 78

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 12-3-20**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Michael Stuart Brown

Represented By  
Michael F Chekian

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
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Wednesday, December 9, 2020

Hearing Room 1568

11:00 AM

2:20-19727 Titus Emil Iovita

Chapter 11

#100.00 Hearing  
RE: [14] Motion to Use Cash Collateral

Docket 14

**Tentative Ruling:**

12/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is **GRANTED**.

**Pleadings Filed and Reviewed**

1. Notice of Motion and Motion in Individual Chapter 11 Case for Order Authorizing Use of Cash Collateral (the "Motion") [Doc. No. 14]
2. Statement Regarding Cash Collateral or Debtor in Possession Financing [Doc. No. 15]
3. Secured Creditor's Conditional Limited Opposition to Debtor's Notice of Motion and Motion for Order Authorizing Use of Cash Collateral Under LBR 9013-1(d) (the "Limited Opposition") [Doc. No. 18]
4. Opposition to Motion for Use of Cash Collateral (the "Opposition") [Doc. No. 21]
5. Reply by Debtor in Possession to Siboney Monge's Opposition to Motion for Use of Cash Collateral (the "Reply") [Doc. No. 22]

**I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession Titus Emil Iovita (the "Debtor") filed his voluntary individual chapter 11 petition on October 28, 2020. On his Schedule A/B, the Debtor listed two properties:

1. 14919 S. Normandie Ave., Apt. 8, Gardena, CA 90247

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11:00 AM

**CONT...**

**Titus Emil Iovita**

**Chapter 11**

2. 18604 Newman Ave., Riverside, CA 92508 (the "Newman Property")

The Newman Property is encumbered by at least one lien: that of Flagstar Bank ("Flagstar") in the amount of \$199,319.46 (the "Flagstar Lien"). The Debtor also lists a disputed lien held by Siboney A. Monge c/o Malibu Recontrust LLC in the amount of \$402,125.00 (the "Monge Lien"). The Debtor scheduled the Newman Property at a value of \$575,000.00. The Debtor also scheduled approximately \$121,402.00 in cash deposits at various banks, \$48,934.00 in brokerage accounts, and \$24,012.00 in retirement accounts.

**A. The Debtor's Motion**

On November 17, 2020, the Debtor filed his Motion seeking an order authorizing use of cash collateral consisting of the Newman Property. The Debtor's proposed monthly budget is as follows:

Income from the Newman Property:	\$2,350.00
Expenses:	
Flagstar Lien Payment:	(\$1,011.00)
Property Taxes:	(269.50)
Property Insurance:	(\$68.00)
Maintenance:	<u>(\$240.00)</u>
Net Income	\$760.00

The Debtor also requests to use the net income to pay quarterly fees to the US Trustee, to deviate from any line item expenses in the proposed budget by no more than 25% without further order of the court, and to use any unpaid expenses (such as insurance, which may not need to be paid every month) to pay subsequent months' budgets. The Debtor states that "[d]ue to the disputed nature of the [Monge Lien], Debtor does not offer any adequate protection payments to that creditor by this motion." Motion at 4.

**B. The Limited Opposition**

On November 23, 2020, Flagstar submitted a Limited Opposition. It does not object to the use of cash collateral to pay the Flagstar lien, utilities, or normal monthly expenses for the Newman Property. The only objection is that Flagstar requests that if the Debtor seeks to use the cash collateral for any large or unusual repairs, that the Debtor be required to notify Flagstar and provide proof of that repair. Flagstar would

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also agree to an excessive repair cap in the range of \$3,500.00.

**C. The Opposition**

On November 25, 2020, Siboney Monge ("Monge") filed an Opposition [Note 1]. Monge states that 1) neither the Debtor nor the estate have any equity in the Newman Property, and 2) the Debtor has tens of thousands of dollars in cash to service any debt. Monge's first argument is that the Monge Lien is undisputed and therefore the property is entirely underwater. Monge argues that the Debtor even admits as such because the Debtor filed as Exhibit 2 to his Motion a Deed of Trust and Assignment of Rents to Monge (the "Deed of Trust"), dated February 1, 2010. *See* Motion at 20. Therefore, Monge argues, the lien is valid and, together with the Flagstar Lien, the Debtor and the estate have no equity in the property.

Monge's second argument is that the Debtor has plenty of cash to service any of his debts and does not require the use of cash collateral. Monge notes that the Debtor has \$121,402.00 in cash deposits at various banks, and that Debtor's income, after expenses, exceeds \$2,100.00 per month.

**D. The Debtor's Reply**

On December 1, 2020, the Debtor filed his Reply. The Debtor argues that for a cash collateral motion, he is only required to show that the lienholders' interests are adequately protected. He argues that "adequate protection" includes the property not declining in value, and does not necessarily mean adequate protection payments. *See In re Johnson*, 90 B.R. 973, 978 (Bankr. D. Minn.) (finding that the bank was not entitled to adequate protection payments because the collateral was not declining in value). The Debtor argues that the payment of the Flagstar Lien, taxes, insurance, and repairs, will actually maintain and possibly increase the value of the property – all beneficial for Monge should her lien be valid. Furthermore, the Debtor clarifies that he still disputes the Monge Lien and any amounts owed to Monge, but only attached the Deed of Trust to his Motion because she does in fact have a recorded lien against the Newman Property.

The Debtor also makes a new argument that the costs and expenses of maintaining the cash collateral can be approved under 11 U.S.C. § 506(c), which states that a Debtor "may recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving, or disposing of, such property

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to the extent of any benefit to the holder of such claim, including the payment of all ad valorem property taxes with respect to the property."

## **II. Findings of Fact and Conclusions of Law**

Section 363(c)(2) requires court authorization for use of cash collateral unless "each entity that has an interest in such cash collateral consents." In the Ninth Circuit, satisfaction of § 363(c)(2)(A) requires the "affirmative express consent" of the secured creditor; "implied consent," resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Dev. Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368-69 (9th Cir. 1987). Absent affirmative express consent, the Debtor "may not use" cash collateral absent the Court's determination that the use is "in accordance with the provisions" of § 363 – that is, that the secured creditor's interest in the cash collateral is adequately protected. 11 U.S.C. §§ 363(c)(2)(B), 363(e).

A secured creditor's interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 382 (1988).

Monge's interest is adequately protected. Monge provides no evidence that the Newman Property is declining in value and makes no request for any sort of adequate protection payments. The argument that the Debtor has no equity in the Newman Property and therefore the Court should deny the Motion would amount to this Court making a determination of the validity of the lien, something that the Court declines to do at this time. At this juncture, there is not enough evidence on the record to determine the validity of the lien. To the extent that Monge's lien is valid, which the Court is not yet finding, the lien is adequately protected due to the fact that the Newman Property does not appear to be declining in value.

Monge's second argument that the Debtor does not *require* the use of cash collateral because he has cash in checking accounts has no merit. The issue with a cash collateral motion is not whether the debtor has other funds, but whether the lienholders' interests are adequately protected.

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As to the Limited Opposition, the Court finds that an "excessive repair cap" of \$3,500 is appropriate. Therefore, if the Debtor is required to perform any repairs in excess of this amount, he must first notify Flagstar's counsel and provide proof of the non-routine repair.

### **III. Conclusion**

For the reasons set forth above, the Motion is **GRANTED**.

The Debtor shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1:** In her Opposition, Monge "objects to this Court's personal and subject matter jurisdiction and does not accede to this Honorable Court's ability to enter final judgments . . ." Opposition at 1. However, Monge has filed a proof of claim against the estate in the amount of \$404,644.67 (denominated as Claim 4 in the claims register on CM/ECF). By filing a proof of claim, Monge has consented to the Bankruptcy Court's resolution of all issues pertaining to her claim. In *Stern v. Marshall*, the Supreme Court found that a "preferential transfer claim can be heard in bankruptcy court when the allegedly favored creditor filed a claim, because *then* 'the ensuing preference action by the trustee become[s] integral to the restricting of the debtor-creditor relationship.'" 564 U.S. 462, 297 (2011). Likewise here, the use of cash collateral is "integral to the restructuring of the debtor-creditor relationship" because such a proceeding requires the Court to determine whether Monge's interest in the collateral securing her claim will be adequately protected if the Court permits the Debtor to use Monge's cash collateral.

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**CONT... Titus Emil Iovita**

**Chapter 11**

**Debtor(s):**

Titus Emil Iovita

Represented By  
Vahe Khojayan

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**2:17-18746 AAA American Construction, Inc. and Capital One Bank**

**Chapter 7**

**#101.00** Hearing re [44] Application for Allowance of Fees and Costs filed by: Law Offices of Larry D. Simons, General Bankruptcy Counsel

Docket 0

**Tentative Ruling:**

12/8/2020

See calendar number 101.10, incorporated by reference in full.

**Party Information**

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
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2:17-18746 AAA American Construction, Inc. and Capital One Bank

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**#101.10** HearingRE: [46] Application for Compensation Notice of Application and First Interim Fee Application of Law Offices of Larry D. Simons, Attorney for Chapter 7 Trustee; declaration of Larry D. Simons and Sam S. Leslie in Support Thereof with proof of service for Larry D Simons, Trustee's Attorney, Period: 5/8/2018 to 9/30/2020, Fee: \$26137.50, Expenses: \$339.02.

Docket 46

**Tentative Ruling:**

12/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$26,137.50 [*see* Doc. No. 46]

Expenses: \$339.02 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.



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**CONT... AAA American Construction, Inc. and Capital One Bank Chapter 7**

**Party Information**

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

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2:17-18746 AAA American Construction, Inc. and Capital One Bank

Chapter 7

#101.20 HearingRE: [47] Application for Compensation of Interim Fees and/or Expenses for LEA Accountancy, LLP, Accountant, Period: 8/14/2017 to 10/23/2020, Fee: \$21,631.00, Expenses: \$493.95.

Docket 47

**Tentative Ruling:**

12/8/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Having reviewed the first interim application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$21,631.00 [see Doc. No. 47]

Expenses: \$493.95[see *id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The applicant shall submit a conforming order within seven days of the hearing.

**Party Information**

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**CONT... AAA American Construction, Inc. and Capital One Bank**

**Chapter 7**

**Debtor(s):**

AAA American Construction, Inc.

Represented By  
Michael H Yi

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Larry D Simons

**United States Bankruptcy Court  
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**2:20-16475 Neumedicines, Inc.**

**Chapter 11**

**#1.00** HearingRE: [114] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Debtor's Motion for Order: (1) Approving the Sale of Substantially All Assets Free and Clear of Liens, Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f)(4); (2) Approving the Assumption and Assignment of Certain Executory Contracts; and (3) Entering Findings Related to the Sale; Memorandum of Points and Authorities; Declarations of Daniel J. Weintraub, Timothy K. Gallaher and Raphael Nir in Support Thereof.

Docket 114

**Tentative Ruling:**

12/9/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required. The parties shall be prepared to address the issues set forth below.

"The court's obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances." *Simantob v. Claims Prosecutor, LLC (In re Lahijani)*, 325 B.R. 282, 288 (B.A.P. 9th Cir. 2005). Here, achieving optimal value requires that the Debtor resolve the dispute with Libo Pharma Corp. regarding the *Exclusive License and Technology Agreement* and its subsequent amendments (the "License") prior to the auction. The Stalking Horse Bidder is not required to close the sale unless Libo has confirmed that the License has terminated and Libo and the Stalking Horse Bidder have entered into a New License on terms agreeable to both parties. See Stalking Horse APA at §§ 1.1(ddd) and 8.1(e). There is no point in conducting an auction where the conditions precedent for the Stalking Horse Bidder to close have not yet been satisfied.

The Debtor acknowledges that no bidder has agreed to waive the conditions precedent pertaining to the License, even if the Debtor obtains an order authorizing sale of the Assets free and clear of the License. See Doc. No. 129, p. 10 at n.2. The Debtor postulates that an order authorizing a sale free and clear "would substantially

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increase the likelihood" that a bidder would close. *Id.* In the Court's view, this is wishful thinking. The dispute regarding the License casts a substantial cloud over the Assets, and a buyer closing the sale absent resolution of this dispute would face significant risk and uncertainty, even if the Debtor obtained an order authorizing sale of the Assets free and clear of the License. Such a buyer could not be certain that the sale order would not be reversed on appeal, an outcome that would significantly impair the value of the Assets. The dispute with Libo thus makes it unlikely that any sale approved by the Court would close. (To be clear, the Court is not making a determination that the Debtor is entitled to an order authorizing sale of the Assets free and clear of the License. The point is that even if the Court ruled in the Debtor's favor on all the disputed issues set forth in the Sale Motion, the Debtor still has not demonstrated that the sale is feasible.)

Even more significant, the cloud cast on the Assets by the dispute will chill bidding, reducing the ultimate sale price received by the estate.

The sale and auction hearing shall remain on calendar, but the Court is unlikely to go forward with the auction unless material progress has been made towards resolving the disputes concerning the License.

If the Court determines that it is appropriate to allow the auction to proceed, the auction shall be conducted out of court by the Debtor. The bids for the Assets involve multiple forms of consideration, including cash, stock, and rights to future royalty payments. An out-of-court auction will maximize the value received by the estate since it will provide the parties a greater opportunity to consult with their advisors regarding the formulation of complex bids. The Debtor shall be responsible for providing a recorder to transcribe the auction. (Unfortunately, the Court is unable to furnish court recording services for out-of-court auctions.) In the event the auction goes forward, the Court will set a continued hearing date to approve the results of the auction.

<b>Party Information</b>
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**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth

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**2:20-16475 Neumedicines, Inc.**

**Chapter 11**

**#2.00** Hearing  
RE: [109] Motion to Extend Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement

Docket 109

**Tentative Ruling:**

12/9/2020

For the reasons set forth below, the Motion is **GRANTED**.

**Pleadings Filed and Reviewed**

1. Motion of Debtor-in-Possession for Entry of an Order (I) Extending the Exclusivity Periods; and (II) Granting Related Relief; Declaration of Daniel J. Weintraub in Support Thereof (the "Motion") [Doc. No. 109]
2. Notice of Hearing on Motion of Debtor-in-Possession for Entry of an Order (I) Extending the Exclusivity Periods; and (II) Granting Related Relief; Declaration of Daniel J. Weintraub in Support Thereof [Doc. No. 111]
3. As of the preparation of this tentative ruling, no objection is on file

**I. Facts and Summary of Pleadings**

Debtor and Debtor-in-Possession, Neumedicines, Inc (the "Debtor") seeks an extension of the exclusivity periods under which it may file and solicit votes on a plan of reorganization (the "Plan"). The Debtor's exclusivity period to file the Plan expired on November 16, 2020. The Debtor's exclusivity period to solicit a vote with respect to the Plan expires on January 15, 2021. The Debtor seeks an order (1) extending the exclusivity period to file the Plan by 120 days, to and including March 16, 2021; and (2) extending the exclusivity period to solicit votes with respect to the Plan by 120 days, to and including May 15, 2021. This is the Debtor's first request for an extension.

The Debtor proposes to sell its various pharmaceutical assets. The process is complex and time-consuming. The Debtor began the sales process, but additional time may be required to complete a sale, if approved. Sale proceeds will enable the debtor

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to pay all allowed claims in full, including all administrative, secured, and unsecured claims.

The Debtor believes that it is appropriate to extend the deadlines to file the Plan and solicit votes because, until the sale is finalized, "any Plan would be speculative and contingent upon a future event with an as of yet to be determined buyer." *Id.* at 4-5.

## **II. Findings of Fact and Conclusions of Law**

Section 1121(b) gives the Debtor the exclusive right to file a plan during the first 120 days after the date of the order for relief. If the debtor files a plan within the 120-day exclusivity period, §1121(c)(3) provides that exclusivity is extended for an additional 60 days to maintain exclusivity during the plan solicitation period. If the plan has not been accepted by holders of impaired claims before 180 days after the date of the order for relief, then the exclusivity period terminates, unless the debtor has obtained an extension. § 1121(c)(3). Section 1121(d) permits the Court to reduce or increase the exclusivity period "for cause." Section 1121 provides the bankruptcy court "maximum flexibility to suit various types of reorganization proceedings." *In re Public Service Company of New Hampshire*, 88 B.R. 521, 534 (Bankr. D.N.H. 1988).

The Court finds that cause exists to extend the exclusivity periods in accordance with the Debtor's request. The Debtor has been working toward both a sale of its assets as well as a resolution of its issues with Libo. Furthermore, the Debtor remains current on all of its post-petition bills. An extension of the exclusivity periods will give the Debtor enough time to file an appropriate Plan, and an extension does not appear as though it will prejudice creditors.

The exclusivity period for the Debtor to file the Plan is extended from November 16, 2020 to and including March 16, 2021. The exclusivity period for the Debtor to solicit votes on the Plan is extended from January 15, 2021 to and including May 15, 2021.

## **III. Conclusion**

For the reasons set forth above, the Motion is **GRANTED**.

The Debtor shall submit a conforming order, incorporating this tentative ruling by reference, within seven days of the hearing.

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**Chapter 11**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth



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10:00 AM

**2:18-22144 Hakop Jack Aivazian**

**Chapter 7**

**#1.00** HearingRE: [171] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1728, 1730 and 1734 East Woodbury Road, Pasadena, CA 91104 . (Weber, Edward)

Docket 171

**Tentative Ruling:**

12/10/2020

**Tentative Ruling:**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Since a chapter 7 case does not contemplate reorganization, the sole issue before the Court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the Debtor has equity in the property. See, e.g., Martens v. Countrywide Home Loans (In re Martens), 331 B.R. 395, 398 (B.A.P. 8th Cir. 2005); Ramco Indus. v. Preuss (In re Preuss), 15 B.R. 896, 897 (B.A.P. 9th Cir. 1981).

The subject property has a value of \$1,540,000.00 and is encumbered by a perfected deed of trust or mortgage in favor of the Movant. The liens against the property and the expected costs of sale total \$1,892,638.56. The Court finds there is no equity and there is no evidence that the trustee can administer the subject real property for the benefit of creditors.

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**CONT... Hakop Jack Aivazian**

**Chapter 7**

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Hakop Jack Aivazian

Represented By  
Guy R Bayley

**Trustee(s):**

Brad D Krasnoff (TR)

Represented By  
Eric P Israel  
Sonia Singh

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**2:20-18403 Jaime Hernandez Molina**

**Chapter 7**

**#2.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Honda Civic .

Docket 10

**Tentative Ruling:**

12/10/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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**CONT... Jaime Hernandez Molina**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Jaime Hernandez Molina

Represented By  
Juan Castillo-Onofre

**Trustee(s):**

John P Pringle (TR)

Pro Se

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**2:20-19967 Ji Kim**

**Chapter 7**

**#3.00** HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 689 S. Berendo Street #603, Los Angeles, CA 90005 with Exhibit A through C and Proof of Service of Document.

Docket 11

**Tentative Ruling:**

12/10/2020

**Tentative Ruling:**

On November 30, 2020, the Court dismissed this case after the Debtor failed to file a credit counseling certificate in compliance with § 109(h) of the Bankruptcy Code, and subsequently failed to cure the defect. *See* Order Dismissing Case [Doc. No. 13]. Notwithstanding the dismissal, the Court explicitly retained jurisdiction to hear this Motion. *Id.* at 2.

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1). The stay is terminated as to the Debtor and the Debtor's bankruptcy estate with respect to the Movant, its successors, transferees and assigns. Movant may enforce its remedies to obtain possession of the property in accordance with applicable law, but may not pursue a deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

The Movant filed an unlawful detainer action on January 24, 2020.

This Motion has been filed to allow the Movant to proceed with the unlawful

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 14, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Ji Kim**

**Chapter 7**

detainer proceeding in state court. The unlawful detainer proceeding may go forward because the Debtor's right to possess the premises must be determined. This does not change simply because a bankruptcy petition was filed. See In re Butler, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002).

This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Ji Kim

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

: **Chapter 0**  
Adv#: 2:18-01221      National Union Fire Insurance Company of Pittsburgh v. Allianz Underwriters

**#1.00**      Status Conference  
RE: [11] Motion to Change Venue/Inter-district Transfer Adversary Proceeding to W.D. Wash. (Plevin, Mark)

fr: 8-15-18; 11-13-18; 2-12-19; 6-11-19; 12-10-19; 5-12-20; 8-11-20

Docket      11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Defendant(s):**

Allianz Underwriters Insurance	Pro Se
Century Indemnity Company	Represented By Mark D Plevin
Certain Underwriters at Lloyd's,	Pro Se
Hartford Accident And Indemnity	Represented By Philip E Smith
The Travelers Indemnity Company	Pro Se
Zurich American Insurance Co.	Pro Se

**Plaintiff(s):**

National Union Fire Insurance	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01384 Mastan, Chapter 7 Trustee v. Discover Bank et al

**#2.00**

Status Hearing to monitor consummation of the Settlement Agreement

RE: [1] Adversary case 2:19-ap-01384. Complaint by Peter J. Mastan, Chapter 7 Trustee against Discover Bank, Jason Young Cho. (Charge To Estate).

Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 8-11-20; 10-13-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: Adversary closed**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Discover Bank

Pro Se

Jason Young Cho

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01385 Mastan, Chapter 7 Trustee v. US Bank, N.A. et al

**#3.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01385. Complaint by Peter J. Mastan, Chapter 7 Trustee against US Bank, N.A., Kenny Hwang, Hee Jung Lee. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-12-20; 7-14-20; 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

US Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

Hee Jung Lee

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#4.00 Status Hearing**

RE: [11] Crossclaim by HSBC Bank, N.A. against Jason Young Cho, Youngduk Duk Cho

fr: 1-14-20; 3-17-20

FR. 7-14-20; 9-15-20

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Represented By  
Jennifer Witherell Crastz

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01386 Mastan, Chapter 7 Trustee v. Hwang et al

**#5.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01386. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Jason Young Cho. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20; 3-17-20

FR. 7-14-20; 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Jason Young Cho

Pro Se

HSBC Bank, N.A.

Pro Se

DOES 1-10, Inclusive

Pro Se

Youngduk Duk Cho

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01392 Mastan v. Flintridge Preparatory School, Inc. et al

**#6.00 Status Hearing**

RE: [37] Amended Complaint First Amended Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)]; and (4) Preservation of Avoided Transfer [11 U.S.C. § 551] by Meghann A Triplett on behalf of Peter Mastan against Flintridge Preparatory School, Inc., Nam Soo Hwang, Young J. Hwang, Young Jae Hwang. (RE: related document(s)1 Adversary case 2:19-ap-01392. Complaint by Peter Mastan against Flintridge Preparatory School, Inc., Hee Young Hwang, Young J. Hwang, Joyce J. Hwang, Nam Soo Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) filed by Plaintiff Peter Mastan). (Triplett, Meghann)

FR. 5-12-20; 7-14-20; 9-15-20

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Defendant(s):**

Flintridge Preparatory School, Inc.	Pro Se
Joyce J. Hwang	Represented By Christian T Kim
Nam Soo Hwang	Represented By Christian T Kim
DOES 1 through 10	Pro Se
Hee Young Hwang	Represented By Christian T Kim
Young J. Hwang	Represented By Christian T Kim
Young Jae Hwang	Represented By Christian T Kim
Hee Youn Hwang	Represented By Christian T Kim

**Plaintiff(s):**

Peter Mastan	Represented By Meghann A Triplett
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**Trustee(s):**

Peter J Mastan (TR)	Represented By Meghann A Triplett Noreen A Madoyan
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01393 Mastan, Chapter 7 Trustee v. Hwang et al

**#7.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01393. Complaint by Peter J. Mastan, Chapter 7 Trustee against In Young Hwang, Twig & Twine, Inc., Danielle Steckler. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 5-12-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

In Young Hwang

Pro Se

Twig & Twine, Inc.

Pro Se

Danielle Steckler

Pro Se

DOES 1 through 10

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01395 Mastan, Chapter 7 Trustee v. JPMorgan Chase Bank, N.A et al

**#8.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01395. Complaint by Peter J. Mastan, Chapter 7 Trustee against JPMorgan Chase Bank, N.A, Kenny Hwang, Mirea Rea Hwang, Hee Jung Lee, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 1-14-20; 3-17-20; 4-21-20; 7-14-20; 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A

Pro Se

Kenny Hwang

Pro Se

Mirea Rea Hwang

Pro Se

Hee Jung Lee

Pro Se

Does 1 - 10, inclusive

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01399 Mastan, Chapter 7 Trustee v. Hwang

**#9.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01399. Complaint by Peter J. Mastan, Chapter 7 Trustee against Hyun Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 12-4-19; 2-11-20; 4-14-20; 5-12-20; 7-14-20; 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Hyun Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT...**

**Keystone Textile, Inc.**

Noreen A Madoyan

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01400 Mastan, Chapter 7 Trustee v. Hwang et al

**#10.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01400. Complaint by Peter J. Mastan, Chapter 7 Trustee against Mirea Rea Hwang, Does 1 - 10, inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b), 548(a)(1)(A), and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; and (3) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 11-19-19; 11-26-19; 12-4-19; 2-11-20; 5-12-20; 7-14-20; 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Mirea Rea Hwang

Pro Se

Does 1 - 10, inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01402 Mastan, Chapter 7 Trustee v. Hwang et al

**#11.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01402. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Trigen Int'l, Inc., Beyond Textile, Inc., Does 1 - 10, inclusive. (Charge To Estate). COMPLAINT FOR: (1) AVOIDANCE OF ACTUAL FRAUDULENT TRANSFERS [11 U.S.C. 544(b), 548(a)(1)(A), And 550(a), And Cal. Civ. Code §§ 3439.04(a) And 3439.07]; (2) AVOIDANCE OF CONSTRUCTIVE FRAUDULENT TRANSFERS [11 U.S.C. §§ 544(b), 548(a)(1) (B), And 550(a), And Cal. Civ. Code §§ 3439.04(b) Or 3439.05 And Cal. Civ. Code § 3439.07] (3) CONSPIRACY TO DEFRAUD [11 U.S.C. § 105(a)] (4) FOR RECOVERY OF ILLEGAL DIVIDENDS [Cal. Corp. Code §§ 500, 501 And 506] (5) FOR BREACH OF FIDUCIARY DUTY; AND (6) RECOVERY OF AVOIDED TRANSFER [11 U.S.C. § 550(a)] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

fr. 11-19-19; 2-11-20; 4-14-20; 7-14-20; 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Trigen Int'l, Inc.

Pro Se

Beyond Textile, Inc.

Pro Se

Does 1 - 10, inclusive

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21270 Keystone Textile, Inc.**

**Chapter 7**

Adv#: 2:19-01403 Mastan, Chapter 7 Trustee v. K2 America, Inc. et al

**#12.00 Status Conference**

RE: [1] Adversary case 2:19-ap-01403. Complaint by Peter J. Mastan, Chapter 7 Trustee against K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate).  
Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1) (B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; and (5) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Triplett, Meghann)

FR. 6-16-20; 7-14-20; 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to 3/16/21 @ 10am**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Keystone Textile, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Keystone Textile, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01391 Mastan v. JPMorgan Chase Bank, N.A. et al

**#13.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01391. Complaint by Peter Mastan against JPMorgan Chase Bank, N.A., Kenny Hwang. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a) and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. code §§3439.04(b) or 3439.05 and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; and (4) Recovery of Avoided Transfer [11 U.S.C. § 550(a)] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Triplett, Meghann)

fr. 11-19-19; 1-14-20; 3-17-20; 4-21-20; 7-14-20; 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

JPMorgan Chase Bank, N.A.

Pro Se

Kenny Hwang

Pro Se

DOES 1-10 inclusive

Pro Se

**Plaintiff(s):**

Peter Mastan

Represented By  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

**2:17-21275 Tbetty, Inc.**

**Chapter 7**

Adv#: 2:19-01404 Mastan, Chapter 7 Trustee v. Hwang et al

**#14.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01404. Complaint by Peter J. Mastan, Chapter 7 Trustee against Kenny Hwang, Mirea Rea Hwang, Hyun Hwang, Tri Blossom, LLC, K2 America, Inc., Does 1-10, Inclusive. (Charge To Estate). Complaint for: (1) Avoidance of Actual Fraudulent Transfers [11 U.S.C. 544(b) 548(a)(1)(A) and 550(a), and Cal. Civ. Code §§ 3439.04(a), and 3439.07]; (2) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 548(a)(1)(B), and 550(a), and Cal. Civ. Code §§ 3439.04(b) or 3439.05, and Cal. Civ. Code § 3439.07]; (3) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (4) Recovery from Subsequent Transferee [11 U.S.C. §§ 544, 548]; (5) Recovery of Avoided Transfers [11 U.S.C. § 550(a)(2)]; (6) Conspiracy to Defraud [11 U.S.C. § 105(a)]; (7) For Recovery of Illegal Dividends [Cal. Corp. Code §§ 500, 501 and 506]; and (8) For Unjust Enrichment (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Triplett, Meghann)

FR. 11-19-19; 12-4-19; 2-11-20; 5-12-20; 7-14-20; 9-15-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to 3/16/2021 @ 10am**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tbetty, Inc.

Represented By  
Christian T Kim

**Defendant(s):**

Kenny Hwang

Pro Se

Hyun Hwang

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

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**Hearing Room 1568**

10:00 AM

**CONT... Tbetty, Inc.**

**Chapter 7**

Tri Blossom, LLC

Pro Se

K2 America, Inc.

Pro Se

Does 1-10, Inclusive

Pro Se

Mi Rae Hwang

Pro Se

**Plaintiff(s):**

Peter J. Mastan, Chapter 7 Trustee

Represented By  
Meghann A Triplett

**Trustee(s):**

Peter J Mastan (TR)

Represented By  
Meghann A Triplett  
Noreen A Madoyan

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-14619 Roberto Kai Hegeler**

**Chapter 7**

Adv#: 2:18-01234 Maground, GmbH v. Hegeler

**#15.00 Status Hearing**

RE: [1] Adversary case 2:18-ap-01234. Complaint by Maground, GmbH against Roberto Kai Hegeler. 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)) (Barsness, Christopher)

FR. 12-18-18; 8-7-19; 1-14-20; 7-14-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-29-20**

**Tentative Ruling:**

1/13/2020

On March 1, 2018, Maground, GmbH ("Plaintiff") commenced a complaint against Roberto Kai Hegeler (the "Debtor/Defendant") in the United States District Court for the Central District of California (the "District Court"), asserting claims for trademark infringement pursuant to 15 U.S.C. §§1114 and 1125(a), trademark dilution pursuant to 15 U.S.C. §1125(c), unfair competition and false advertising pursuant to 15 U.S.C. §1125(a), cybersquatting pursuant to 15 U.S.C. §1125(d), common law trademark infringement, breach of contract, conversion, and violations of Cal. Bus. & Prof. Code §§14247, 17200, and 17500 (the "District Court Action"). *See* Maground, GmbH v. Roberto Kai Hegeler and Maground, LLC (Doc. No. 1, Case No. 2:18-cv-01760-CJC-JC). On April 23, 2018, Debtor/Defendant filed a voluntary Chapter 7 petition. On May 4, 2018, the District Court stayed the District Court Action pending resolution of Debtor/Defendant's bankruptcy proceeding.

On July 23, 2018, Plaintiff commenced an action against Debtor/Defendant in the Bankruptcy Court (the "Non-Dischargeability Action"). On December 17, 2018, the Bankruptcy Court entered an order (1) *sua sponte* lifting the automatic stay to permit the District Court Action to proceed and (2) staying the Non-Dischargeability Action until entry of a final, non-appealable judgment in the District Court Action. Doc. No. 19 (the "Stay Order"). The Stay Order provided:

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

CONT...

**Roberto Kai Hegeler**

**Chapter 7**

The most efficient way to resolve the Non-Dischargeability Action is for Plaintiff to first prosecute the District Court Action to final judgment. In the event Plaintiff obtains judgment in its favor, Plaintiff may then return to the Bankruptcy Court to obtain a determination regarding whether such judgment is dischargeable. The District Court is better equipped than this Court to determine whether Defendant is indebted to Plaintiff on account of the allegations for trademark infringement, trademark dilution, and cybersquatting, all of which require the application of substantive non-bankruptcy law.

Stay Order at ¶ 3.

Trial in the District Court Action is set for November 3, 2020. Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall be held on **July 14, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which shall discuss the status of the District Court Action, shall be submitted by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Roberto Kai Hegeler

Represented By  
Kirk Brennan

**Defendant(s):**

Roberto Kai Hegeler

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Roberto Kai Hegeler**

**Chapter 7**

**Plaintiff(s):**

Maground, GmbH

Represented By  
Christopher C Barsness

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-10549 Bahram Zendedel**

**Chapter 7**

Adv#: 2:19-01114 Chady v. Zendedel

**#16.00 Status Hearing**

RE: [1] Adversary case 2:19-ap-01114. Complaint by Cyrus Chady, Bahram Zendedel against Bahram Zendedel. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) (Uyeda, James)

fr: 8-13-19; 1-14-20; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-9-20**

**Tentative Ruling:**

5/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On February 26, 2019, the Court granted Plaintiff relief from the automatic stay, to enable Plaintiff to prosecute against Defendant two actions pending in the Los Angeles Superior Court (the "State Court Actions"). Plaintiff seeks to establish the indebtedness which is alleged to be non-dischargeable in this proceeding by way of the State Court Actions. On June 18, 2019, the Court granted Plaintiff's motion to abstain from adjudicating this dischargeability action until Plaintiff had obtained final, non-appealable judgments in the State Court Actions.

The judgment in one of the State Court Actions is now final. Judgment in the other State Court Action is not expected to become final for at least one year.

Based upon the foregoing, the Court **HEREBY ORDERS AS FOLLOWS:**

- 1) A continued Status Conference shall take place on **December 15, 2020, at 10:00 a.m.**
- 2) A Joint Status Report, which shall discuss the status of the remaining State

**United States Bankruptcy Court  
Central District of California  
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10:00 AM

CONT...

**Bahram Zendedel**

**Chapter 7**

Court Action, shall be filed by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Bahram Zendedel

Represented By  
Khachik Akhkashian

**Defendant(s):**

Bahram Zendedel

Pro Se

**Plaintiff(s):**

Cyrus Chady

Represented By  
James S Uyeda

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

**2:19-13660 Michelle Claudia Mathis**

**Chapter 7**

Adv#: 2:20-01619 Mathis v. United States Department of Education

**#17.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01619. Complaint by Michelle C Mathis against United States Department of Education - (\$350.00 Fee Not Required) - Nature of Suit: (63 (Dischargeability - 523(a)(8), student loan)) (Milano, Sonny)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Michelle Claudia Mathis	Pro Se
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**Defendant(s):**

United States Department of	Pro Se
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**Plaintiff(s):**

Michelle C Mathis	Pro Se
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**Trustee(s):**

Heide Kurtz (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-18382 Shoezoo.com, LLC**

**Chapter 7**

Adv#: 2:20-01627 Menchaca, Chapter 7 Trustee v. Sida

**#18.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01627. Complaint by John J Menchaca, Chapter 7 Trustee against Alon Sida. (\$350.00 Fee Charge To Estate). Complaint for Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Shoezoo.com, LLC

Represented By  
Charles Shamash

**Defendant(s):**

Alon Sida

Pro Se

**Plaintiff(s):**

John J Menchaca, Chapter 7 Trustee

Represented By  
Steven Werth

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Steven Werth  
Jeffrey L Sumpter



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-18382 Shoezoo.com, LLC**

**Chapter 7**

Adv#: 2:20-01628 Menchaca, Chapter 7 Trustee v. Sida

**#19.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01628. Complaint by John J Menchaca, Chapter 7 Trustee against Talya Adika Sida. (\$350.00 Fee Charge To Estate). Complaint for Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Shoezoo.com, LLC

Represented By  
Charles Shamash

**Defendant(s):**

Talya Adika Sida

Pro Se

**Plaintiff(s):**

John J Menchaca, Chapter 7 Trustee

Represented By  
Steven Werth

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Steven Werth  
Jeffrey L Sumpter

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-18382 Shoezoo.com, LLC**

**Chapter 7**

Adv#: 2:20-01629 Menchaca, Chapter 7 Trustee v. LaParl

**#20.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01629. Complaint by John J Menchaca, Chapter 7 Trustee against Richard Frank LaParl. (\$350.00 Fee Charge To Estate).  
Complaint for Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to 4/13/2021 at 10am**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Shoezoo.com, LLC

Represented By  
Charles Shamash

**Defendant(s):**

Richard Frank LaParl

Pro Se

**Plaintiff(s):**

John J Menchaca, Chapter 7 Trustee

Represented By  
Steven Werth

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Steven Werth  
Jeffrey L Sumpter

**United States Bankruptcy Court  
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Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

**2:19-18382 Shoezoo.com, LLC**

**Chapter 7**

Adv#: 2:20-01630 Menchaca, Chapter 7 Trustee v. North American Auto Leasing, a California

**#21.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01630. Complaint by John J Menchaca, Chapter 7 Trustee against North American Auto Leasing, a California limited liability company. (\$350.00 Fee Charge To Estate). Complaint for Avoidance and Recovery of Fraudulent Transfers and Preferential Transfers Pursuant to 11 U.S.C. §§ 544, 547(b), 548, 550 and 551 Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

Docket 1

\*\*\* VACATED \*\*\* REASON: Cont'd to 4/13/21 at 10am

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Shoezoo.com, LLC

Represented By  
Charles Shamash

**Defendant(s):**

North American Auto Leasing, a

Pro Se

**Plaintiff(s):**

John J Menchaca, Chapter 7 Trustee

Represented By  
Steven Werth

**Trustee(s):**

John J Menchaca (TR)

Represented By  
Steven Werth  
Jeffrey L Sumpter

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-24904 Nicholas Rene Ortiz**

**Chapter 7**

Adv#: 2:20-01024 Winfund Investment LLC v. Ortiz

**#22.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01024. Complaint by Winfund Investment LLC against Nicholas rene Ortiz. willful and malicious injury)),(65 (Dischargeability - other)) (Chang, Peiwen)

fr. 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to 5/11/21 at 10am**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Nicholas Rene Ortiz

Represented By  
Daniel G McMeekin

**Defendant(s):**

Nicholas Rene Ortiz

Pro Se

**Plaintiff(s):**

Winfund Investment LLC

Represented By  
Peiwen Chang

**Trustee(s):**

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-14870 Melissa L Loe**

**Chapter 7**

Adv#: 2:20-01618 Loe v. United States Department Of Education et al

**#23.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01618. Complaint by Melissa Lynn Loe against United States Department Of Education , Great Lakes Educational Loan Services, Inc. . (\$350.00 Fee Not Required). (Attachments: # 1 complaint part 2 # 2 complaint part 3 # 3 cover sheet) Nature of Suit: (63 (Dischargeability - 523(a)(8), student loan)) (Arias, Jose)

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to 3/9/2021 at 10am**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Melissa L Loe	Pro Se
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**Defendant(s):**

United States Department Of	Pro Se
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Great Lakes Educational Loan	Pro Se
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**Plaintiff(s):**

Melissa Lynn Loe	Pro Se
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**Trustee(s):**

Peter J Mastan (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

**#24.00** Status Hearing  
RE: [1] Postconfirmation Status Conference

fr. 10-17-18; 1-15-19; 6-11-19; 12-10-19; 5-12-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 6-15-21 AT 10:00 A.M.**

**Tentative Ruling:**

5/11/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On June 18, 2018, the Court entered an order confirming the *First Amended Chapter 11 Plan of Liquidation Dated January 31, 2018* (the "Plan"). The Plan appointed Bradley D. Sharp as the Plan Administrator responsible for liquidating the assets of the estate. (The Plan provided that all assets of the estate remained vested in the estate. *See* Plan at Art. 3.)

The Plan Administrator has made six distributions to holders of allowed claims. Funds distributed to date exceed \$11.7 million.

Having reviewed the *Fifth Post-Confirmation Status Report*, the Court finds that the Plan Administrator is making sufficient progress toward effectuating the Plan. A continued Status Conference shall take place on **December 15, 2020, at 10:00 a.m.** The Plan Administrator shall submit a Status Report by no later than fourteen days prior to the hearing.

The Court will prepare and enter an order setting the continued Status Conference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Liberty Asset Management Corporation**

**Chapter 11**

determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Liberty Asset Management

Represented By

David B Golubchik

Jeffrey S Kwong

John-Patrick M Fritz

Eve H Karasik

Sandford L. Frey

Raphael Cung

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:16-13575 Liberty Asset Management Corporation**

**Chapter 11**

Adv#: 2:16-01374 Official Unsecured Creditors Committee for Liberty v. Ho et al

**#25.00** Status conference re Status Conference to monitor the status of the criminal action against Kirk and Gao

fr. 7-9-19; 10-15-19; 12-10-19; 2-11-20; 3-11-20; 9-8-20

Docket 129

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-13-21 AT 10:00 A.M.**

**Tentative Ruling:**

9/3/2020

Order entered. Status conference **CONTINUED to December 15, 2020 at 10:00 a.m.**

<b>Party Information</b>
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**Debtor(s):**

Liberty Asset Management

Represented By  
David B Golubchik  
Jeffrey S Kwong  
John-Patrick M Fritz  
Eve H Karasik  
Sandford L. Frey  
Raphael Cung

**Defendant(s):**

Tsai Luan Ho

Represented By  
James Andrew Hinds Jr  
Paul R Shankman  
Rachel M Sposato

Benjamin Kirk

Pro Se

**Plaintiff(s):**

Official Unsecured Creditors

Represented By  
Jeremy V Richards



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Liberty Asset Management Corporation**

**Chapter 11**

Gail S Greenwood

Bradley D. Sharp

Represented By  
Gail S Greenwood

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01377 Packaging Corporation of America v. Bonert et al

**#26.00** Status Conference re: Collection Actions re: Notice of Removal of Civil Action to United States Bankruptcy Court. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (13 (Recovery of money/property - 548 fraudulent transfer))

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20; 9-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: WILL BE HEARD AT 11:00 A.M. TODAY**

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert's Incorporated dba Bonert's	Pro Se
Bonert Management Company, Inc.	Represented By Lawrence M Jacobson
Bonert's Jadahasa, LLC	Represented By Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Packaging Corporation of America	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01378 Coastal Carriers, LLC v. Bonert et al

**#27.00** Status Hearing

re: Collection Actions [1] Adversary case 2:19-ap-01378. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan)

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20; 9-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: WILL BE HEARD AT 11:00 A.M. TODAY**

**Tentative Ruling:**

9/22/2020

See Cal. No. 9, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Coastal Carriers, LLC	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#28.00** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01405. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20; 9-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: WILL BE HEARD AT 11:00 A.M. TODAY**

**Tentative Ruling:**

9/22/2020

See Cal. No. 9, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

Beefam, LLC

Represented By  
Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Capitol Distribution Company, LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406      Stratas Foods LLC v. Bonert et al

**#29.00** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01406. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20; 9-23-20

Docket      1

**\*\*\* VACATED \*\*\* REASON: WILL BE HEARD AT 11:00 A.M. TODAY**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Represented By  
Lawrence M Jacobson

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Michael Bonert**  
Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

**Chapter 11**

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

10:00 AM

2:20-16475 Neumedicines, Inc.

Chapter 11

#30.00 Hearing

RE: [114] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Debtor's Motion for Order: (1) Approving the Sale of Substantially All Assets Free and Clear of Liens, Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f)(4); (2) Approving the Assumption and Assignment of Certain Executory Contracts; and (3) Entering Findings Related to the Sale; Memorandum of Points and Authorities; Declarations of Daniel J. Weintraub, Timothy K. Gallaher and Raphael Nir in Support Thereof.

fr. 12-10-20

Docket 114

**Tentative Ruling:**

12/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required.

**Party Information**

**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:10-62208 EPD Investment Co., LLC**

**Chapter 7**

Adv#: 2:12-02424 Rund, Chapter 7 Trustee v. Kirkland, individually et al

**#100.00** PRETRIAL RE: [234] Amended Complaint Fourth Amended Complaint Against: (1) John C. Kirkland; and (2) Poshow Ann Kirkland as Trustee of The Bright Conscience Trust Dated September 9, 2009 for: 1. Disallowance of Proofs of Claim, or in the alternative, Equitable Subordination of Proofs of Claim; 2. Avoidance of Fraudulent Transfers (Actual Intent); 3. Avoidance of Fraudulent Transfers (Actual Intent); 4. Avoidance of Fraudulent Transfers (Constructive Fraud); 5. Avoidance of Fraudulent Transfers (Constructive Fraud); 6. Recovery of Avoided Transfers by Corey R Weber on behalf of Jason M Rund, Chapter 7 Trustee against Poshow Ann Kirkland, as Trustee of the Bright Conscience Trust Dated September 9, 2009, John C Kirkland, individually. (Weber, Corey)

FR. 7-11-17; 9-12-17; fr. 11-7-17; 11-21-17; 1-17-18; 2-21-18; 5-15-18; 8-14-18; 7-22-20

Docket 234

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-21 AT 11:00 A.M.**

**Tentative Ruling:**

9/10/2018

On February 17, 2018, the Court issued a Report and Recommendation, recommending that the District Court enter final judgment, in favor of the Chapter 7 Trustee (the "Trustee"), as to the second, third, and sixth claims for relief for avoidance and recovery of fraudulent transfers made with actual intent. Doc. No. 341. On that same date, the Court issued a Memorandum of Decision, stating that the Court intended to grant the Trustee's motion for summary adjudication disallowing the proofs of claim filed by the Bright Conscience Trust (the "BC Trust"). However, the Memorandum of Decision stated that the findings set forth therein would not become the order of the Court until the District Court acted upon the Report and Recommendation.

On June 25, 2018, the District Court rejected the Report and Recommendation, and denied the Trustee's motion for summary adjudication as to the second, third, and sixth claims for relief. On July 20, 2018, the Trustee moved for reconsideration of the District Court's rejection of the Report and Recommendation. On August 13, 2018,

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11:00 AM

**CONT... EPD Investment Co., LLC**

**Chapter 7**

the District Court denied the Trustee's motion for reconsideration.

The Trustee asserts that the Court has jurisdiction over the Trustee's claims for disallowance and equitable subordination of the proofs of claim filed by the BC Trust. The Trustee's position is that the Court should enter final judgment with respect to these claims. According to Defendants John C. Kirkland and the BC Trust (collectively, the "Defendants"), Mr. Kirkland has preserved his rights to a jury trial in the District Court because Mr. Kirkland has not consented to the Bankruptcy Court's entry of final judgment. Defendants assert that the issues arising in connection with the Trustee's claims against the BC Trust overlap with the issues arising in connection with the Trustee's claims against Mr. Kirkland. According to Defendants, bifurcating the fraudulent transfer claims against Mr. Kirkland and the equitable subordination and disallowance claims against the BC Trust would prejudice Mr. Kirkland, because of the collateral estoppel effect against Mr. Kirkland of findings made with respect to the common issues affecting both Mr. Kirkland and the BC Trust.

As further set forth in the *Preliminary Findings and Conclusions*, below, in the Court's view, the most efficient means of resolving these proceedings would be for the District Court to conduct a jury trial on the claims against Mr. Kirkland. Subsequent to the District Court's entry of final judgment against Mr. Kirkland, the Bankruptcy Court would then try the Trustee's claims against the BC Trust. Pursuant to 28 U.S.C. §157(d) and Bankruptcy Rule 5011(a), only the District Court can withdraw the jurisdictional reference. *See Sigma Micro Corp. v. Healthcentral.com (In re Healthcentral.com)*, 504 F.3d 775, 785 (9th Cir. 2007). Therefore, by separate order, the Court will require the Trustee and the Defendants to show cause why the Court should not stay adjudication of the claims against the BC Trust until the District Court has entered final judgment on the claims against Mr. Kirkland. The hearing on the *Order to Show Cause* shall take place on **October 2, 2018, at 10:00 a.m.** The Trustee and the Defendants shall submit papers responding to the Court's *Preliminary Findings and Conclusions* by no later than **September 25, 2018**. No reply briefing will be accepted.

Mr. Kirkland shall file with the District Court a motion to withdraw the reference by no later than **September 25, 2018**.

*Preliminary Findings and Conclusions*

John C. Kirkland has demanded a jury trial in this fraudulent conveyance action, has not filed a proof of claim against the estate, and does not consent to having the jury trial conducted by the Bankruptcy Court. Under these circumstances, Mr.

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**CONT... EPD Investment Co., LLC**

**Chapter 7**

Kirkland is entitled to a jury trial before the District Court. *See Langenkamp v. Culp*, 498 U.S. 42, 45 (1990) ("If a party does *not* submit a claim against the bankruptcy estate, however, the trustee can recover allegedly preferential transfers only by filing what amounts to a legal action to recover a monetary transfer. In those circumstances the preference defendant is entitled to a jury trial."); Bankruptcy Rule 9015(b) (stating that the Bankruptcy Court may conduct a jury trial only if the parties consent); and *Executive Benefits Ins. Agency v. Arkison (In re Bellingham Ins. Agency, Inc.)*, 702 F.3d 553 (9th Cir. 2012) (holding that the Bankruptcy Court lacks constitutional authority to enter final judgment in a fraudulent conveyance action absent consent of the parties).

The BC Trust has filed proofs of claim against the estate. As a result, the Bankruptcy Court has jurisdiction to enter final judgment with respect to the Trustee's claims against the BC Trust. *See Langenkamp*, 498 U.S. at 45.

The claims against Mr. Kirkland and the BC Trust present common issues of fact. For example, the Trustee asserts that the BC Trust's claims against the estate should be disallowed and/or equitably subordinated based upon Mr. Kirkland's alleged inequitable conduct. The Trustee's causes of action for disallowance and/or equitable subordination are pleaded against both the BC Trust and Mr. Kirkland.

As a result of the overlap between the claims asserted against Mr. Kirkland and the claims asserted against the BC Trust, the most efficient means for this action to proceed would be for the District Court to first adjudicate the claims against Mr. Kirkland. Once the District Court has entered findings with respect to Mr. Kirkland, the Bankruptcy Court can then try the claims against the BC Trust. If the Bankruptcy Court tried claims against the BC Trust prior to the District Court's trial of claims against Mr. Kirkland, findings by the Bankruptcy Court with respect to common issues of fact could prejudice Mr. Kirkland. For example, Mr. Kirkland could be collaterally estopped from contesting certain issues of fact that might prove material to the adjudication of the claims against him; were that to occur, Mr. Kirkland would effectively be deprived of his right to a jury trial. *See Ross v. Bernhard*, 396 U.S. 531 (holding that "where equitable and legal claims are joined in the same action," the right to jury trial on the legal claims "must not be infringed either by trying the legal issues as incidental to the equitable ones by a court trial of a common issue existing between the claims").

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Jessica Vogel or Daniel Koontz at



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Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, December 15, 2020**

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11:00 AM

**CONT... EPD Investment Co., LLC**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:17-13016 Sharp Edge Enterprises**

**Chapter 7**

Adv#: 2:18-01163 Leslie v. Reihanian et al

**#101.00** Pre-Trial Conference  
RE: [10] Amended Complaint by Christian T Kim on behalf of Sam S. Leslie, Sam S Leslie (TR) against Leon Reihanian. (RE: related document(s)1 Adversary case 2:18-ap-01163. Complaint by Sam S. Leslie against Leon Reihanian. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)) filed by Plaintiff Sam S. Leslie. (Kim, Christian)

fr. 6-11-19; 7-16-19; 1-15-20; 8-11-20

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-9-21 AT 11:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Sharp Edge Enterprises

Represented By  
Peter A Davidson

**Defendant(s):**

Leon Reihanian

Represented By  
Raymond H. Aver

DOES 1-20, inclusive

Pro Se

Abraham Reihanian, as Trustee of

Pro Se

**Plaintiff(s):**

Sam S. Leslie

Represented By  
Christian T Kim  
James A Dumas Jr



**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Sharp Edge Enterprises**

**Chapter 7**

**Trustee(s):**

Sam S Leslie (TR)

Represented By  
Christian T Kim  
James A Dumas Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-12402 Ryan James McMillin**

**Chapter 7**

Adv#: 2:19-01137 Elite Optoelectronics Co., Ltd a China Limited Lia v. McMillin et al

**#102.00** Pre-Trial Conference

RE: [1] Adversary case 2:19-ap-01137. Complaint by G-Sight Solutions, LLC against Ryan James McMillin, G-Sight Solutions, Inc., a California Corporation. 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)),(14 (Recovery of money/property - other)) (Zshornack, Errol)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3-9-21 AT 11:00 AM**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ryan James McMillin

Represented By  
John A Harbin

**Defendant(s):**

Ryan James McMillin

Represented By  
Steven J Renshaw  
Errol J Zshornack  
Peter J Tormey

G-Sight Solutions, Inc., a California

Pro Se

**Plaintiff(s):**

Elite Optoelectronics Co., Ltd a

Represented By  
Peter J Tormey  
Errol J Zshornack

G-Sight Solutions, LLC, a California

Represented By  
Peter J Tormey  
Errol J Zshornack

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Ryan James McMillin**

**Chapter 7**

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-20228 Sheila G. Scott**

**Chapter 11**

**#103.00** Hearing  
RE: [45] U.S. Trustee Motion to dismiss or convert or appoint a Chapter 11 Trustee .

Docket 45

**Tentative Ruling:**

12/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Motion is GRANTED, and this case is CONVERTED to one under chapter 7 of the United States Bankruptcy Code.

**Pleadings Filed and Reviewed**

- 1) Notice of Motion and Motion Under 11 U.S.C. 1112(b)(1) to Convert, Dismiss or Appoint a Chapter 11 Trustee; Declaration of Paralegal Specialist (the "Motion") [Doc. No. 45]
- 2) JPMorgan Chase Bank, N.A.'s Join[d]er to the U.S. Trustee' Motion to Dismiss Debtor's Bankruptcy Case for Cause Under 11 U.S.C. § 1112 or in the Alternative, Convert the Debtor's Case to Chapter 7 (the "Joinder") [Doc. No. 49]
- 3) Debtor's Limited Opposition to Motion Under 11 U.S.C. §1112(b)(1) to Convert Dismiss or Appoint a Chapter 11 Trustee (the "Limited Opposition") [Doc. No. 52]

**I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, Sheila G. Scott (the "Debtor"), filed this voluntary chapter 11 petition on August 29, 2019. This is the Debtor's third chapter 11 petition. Her first was filed on March 31, 2010 (2:10-bk-22308-ER), dismissed on

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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11:00 AM

**CONT...**

**Sheila G. Scott**

**Chapter 11**

October 31, 2011, and her second was filed on March 5, 2012 (2:12-bk-17909-ER), dismissed on November 5, 2013. The primary asset in this case, as well as the two earlier cases, is the Debtor's residence at 468 South Bundy Drive, Los Angeles, CA 90049 (the "Property") with a scheduled value of \$6,500,000 and secured by a mortgage by JPMorgan of \$4,971,920.53.

On December 13, 2019, the Debtor filed a Motion for Order to Employ Real Estate Broker in an attempt to sell the Property. *See* Doc. No. 29. The Court granted that motion on January 6, 2020, and the Property was listed for sale at a price of \$6,250,000. According to public records, the price was reduced to \$5,750,000 on January 17, 2020, was increased to \$5,888,000 on November 16, 2020, and was cut again to \$5,762,00 on December 9, 2020. *See* ZILLOW, [https://www.zillow.com/homedetails/468-S-Bundy-Dr-Los-Angeles-CA-90049/111917943\\_zpid/](https://www.zillow.com/homedetails/468-S-Bundy-Dr-Los-Angeles-CA-90049/111917943_zpid/) (last visited Dec. 11, 2020).

On November 5, 2020, the United States Trustee (the "U.S. Trustee") filed its Motion requesting conversion of the case to chapter 7. The Trustee argues that no disclosure statement or plan of reorganization has been filed since the start of the case, the Debtor has not made quarterly payments for the third or fourth quarter of 2020, and this is the Debtor's third bankruptcy case.

On November 10, 2020, JPMorgan Chase Bank, N.A. ("JPMorgan") filed its Joinder. JPMorgan argues that cause exists to dismiss or convert the case because the Debtor has failed to act as a fiduciary to her creditors. Joinder at 6. The Debtor has made "virtually no progress toward reorganizing or selling the Property" and has not made any payments on the Property since before the bankruptcy filing. *Id.* at 7-8. JPMorgan notes that the Debtor filed this case just a few days before it was going to conduct a non-judicial foreclosure sale and yet the Debtor has received no substantive offers on the property and had to reduce the price on one occasion. *Id.* at 8. Furthermore, JPMorgan does not believe the Debtor can formulate a viable chapter 11 plan because the equity cushion on the property is decreasing, the Debtor's opinion as to the sale price is unrealistic, and the current delinquency on the loan is \$556,235.29. JPMorgan believes that continued diminution of the estate is evident based on the Debtor's failure to make any payments to JPMorgan, despite the Debtor's husband (who resides at the property) earning approximately \$30,000 in monthly gross income. Finally, JPMorgan avers that conversion to chapter 7 is in the best interest of creditors

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Los Angeles  
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**CONT... Sheila G. Scott**

**Chapter 11**

because there is equity in the estate that may allow JPMorgan to be paid in full. *Id.* at 10-11. The Debtor has made no progress in this case for almost a year, and has filed multiple bankruptcies in the past that have been dismissed.

Pursuant to Local Bankruptcy Rule 9013-1(f)(1), "each interested party opposing or responding to the motion must file and serve the response (Response) on the moving party and the United States trustee not later than 14 days before the date designated for hearing." The deadline to file an opposition was December 1, 2020. On December 11, 2020, ten days after the opposition deadline, the Debtor filed a Limited Opposition. Not only does filing the Limited Opposition ten days late deprive opposing counsel any meaningful chance to reply, it shows a blatant disregard for the rules of this Court. The Debtor's attempt to sneak in an opposition at the last minute is not well taken. Furthermore, the Debtor's contention that she "does not believe that the real property can be sold for an amount in excess of the JP Morgan Chase Claim" lacks any evidentiary support and will therefore not be considered. Limited Opposition at 2.

## **II. Findings of Fact and Conclusions of Law**

Under § 1112(b), the Court shall dismiss or convert a case to one under chapter 7 upon a showing of "cause." 11 U.S.C. § 1112(b). Section 1112(b)(4) provides a nonexclusive list of factors that include: "(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation; . . . (B) gross mismanagement of the estate; . . . (J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court." 11 U.S.C. § 1112(b)(4)(A), (B) & (J). "The enumerated causes are not exhaustive, and 'the court will be able to consider other factors as they arise, and to use its equitable powers to reach an appropriate result in individual cases.'" *In re Consol. Pioneer Mortg. Entities*, 248 B.R. 368, 375 (B.A.P. 9th Cir. 2000) (quoting H.R. No. 95-595, 95th Cong., 1st Sess. 405-06 (1977)), *aff'd*, 264 F.3d 803 (9th Cir. 2001).

The Debtor is approximately \$556,235.29 in arrears and has just \$2,189 in her DIP account. Joinder at 10. "A Debtor lacks 'a reasonable likelihood of rehabilitation' where, for example, it lacks income . . ." *In re Bay Area Material Handling*, 76 F.3d 384, \*2 (9th Cir. 1996) (quoting *In re Johnston*, 149 B.R. 158, 162 (9th Cir. B.A.P.) (finding that, where the Debtor did not have sufficient income in a chapter 11,

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**Chapter 11**

conversion to a chapter 7 was warranted)). The equity in the Property continues to erode with no prospect of rehabilitation.

In addition, the Debtor in this chapter 11 case is supposed to be a fiduciary to her creditors, yet for over a year has made no progress toward a plan, has made no mortgage payments, and has not sought to pay property taxes for the Property directly. The Debtor has failed to act in the best interest of her creditors by effectively stalling since the Property was put on sale.

Finally, the Debtor has not submitted a chapter 11 plan, nor is there any prospect that she will submit one or be able to consummate one. Pursuant to 11 U.S.C. § 1121(b), a debtor generally has 120 days to submit a plan and 60 days after that to obtain approval of that plan by the creditors. "Under § 1112(b)(2), cause exists where 'a debtor's failure to file an acceptable plan after reasonable time indicates its inability to do so[,]' regardless of the reasons for that failure." *In re Bay Area*, 76 F.3d at \*2 (quoting *Hall v. Vance*, 887 F.2d 1041, 1044 (10th Cir. 1989)). The Debtor is far beyond the timeframe envisioned by § 1121(b) and has not asked for any extension or given this Court any indication that she is close to submitting a plan. This case has been pending for over a year with little progress, and this is the third case that the Debtor has filed in an attempt to prevent foreclosure on the Property. The Court finds that the Debtor has failed to submit a plan within a reasonable time period and is unable to do so.

Having determined that cause exists, the only issue remaining for the Court is to determine whether conversion, dismissal, or appointment of a chapter 11 trustee serves the best interests of creditors or the estate. *See In re Products Int'l Co.*, 395 B.R. 101, 107 (Bankr. D. Ariz. 2008) (citing *In re Nelson*, 343 B.R. 671 (9th Cir. 2006)). "[W]hen deciding between dismissal and conversion under 11 U.S.C. § 1112(b), the court must consider the interests of *all* of the creditors." *Shulkin Hutton, Inc. v. Treiger (In re Owens)*, 552 F.3d 958, 961 (9th Cir. 2009) (emphasis in original) (quoting *Rollex Corp. v. Associated Materials, Inc. (In re Superior Siding & Window, Inc.)*, 14 F.3d 240, 243 (4th Cir. 1994)).

As this is the Debtor's third bankruptcy case and she has had the Property listed for sale for almost a year, the Court determines that conversion to chapter 7 is in the best interest of creditors. It is abundantly clear that if the Court were to dismiss

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**CONT... Sheila G. Scott**

**Chapter 11**

this case with a bar to refile, the Debtor would eventually refile and this cycle would continue. As JPMorgan was already in the process of conducting a non-judicial foreclosure sale before the Debtor filed the instant case. Given the Debtor's inability to sell the Property (and likely unrealistic expectations of the sale price), JPMorgan will be in a better position to sell the Property in order to preserve what equity is left in the Property.

### **III. Conclusion**

For the reasons set forth above, the Motion is GRANTED. This case is hereby CONVERTED to one under chapter 7 of the United States Bankruptcy Code, and a trustee will be appointed.

The U.S. Trustee is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Sheila G. Scott

Represented By  
Robert S Altagen



**United States Bankruptcy Court  
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11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01405 Capitol Distribution Company, LLC v. Bonert et al

**#104.00** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01405. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20; 9-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-2021 AT 10:00 A.M.**

**Tentative Ruling:**

9/22/2020

See Cal. No. 9, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Inc., a California

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

Beefam, LLC

Represented By  
Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Capitol Distribution Company, LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
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Los Angeles  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01406 Stratas Foods LLC v. Bonert et al

**#105.00** Status Hearing re: Collection Actions  
RE: [1] Adversary case 2:19-ap-01406. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan) **WARNING: See docket entry # [2] for corrective action; Attorney to file a conformed copy of state court complaint; Modified on 9/16/2019 (Evangelista, Maria).**

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20; 9-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-2021 AT 10:00 A.M.**

**Tentative Ruling:**

9/22/2020

See Cal. No. 9, above, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Represented By  
Lawrence M Jacobson

**United States Bankruptcy Court  
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Los Angeles  
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**Tuesday, December 15, 2020**

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11:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadasaha, LLC

Represented By  
Lawrence M Jacobson

Bonert's MV, LLC

Represented By  
Lawrence M Jacobson

Bonert's Mibon, LLC

Represented By  
Lawrence M Jacobson

Beefam, LLC

Represented By  
Lawrence M Jacobson

3144 Bonert's LLC

Represented By  
Lawrence M Jacobson

DOES 1 through 10, inclusive

Pro Se

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Plaintiff(s):**

Stratas Foods LLC

Represented By  
Sean Lowe  
Scott E Blakeley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01378 Coastal Carriers, LLC v. Bonert et al

**#106.00** Status Hearing

re: Collection Actions [1] Adversary case 2:19-ap-01378. Notice of Removal of Civil Action to United States Bankruptcy Court with proof of service by Michael Bonert, Vivien Bonert. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (13 (Recovery of money/property - 548 fraudulent transfer)) (Forsley, Alan)

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20; 9-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-2021 AT 10:00 A.M.**

**Tentative Ruling:**

9/22/2020

See Cal. No. 9, above, incorporated in full by reference.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

Bonert's Incorporated dba Bonert's

Pro Se

Bonert Management Company, Inc.

Represented By  
Lawrence M Jacobson

Bonert's Jadahasa, LLC

Represented By

**United States Bankruptcy Court  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Michael Bonert**

**Chapter 11**

	Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Coastal Carriers, LLC	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**2:19-20836 Michael Bonert**

**Chapter 11**

Adv#: 2:19-01377 Packaging Corporation of America v. Bonert et al

**#107.00**

Status Conference re: Collection Actions re: Notice of Removal of Civil Action to United States Bankruptcy Court. Nature of Suit: (01 (Determination of removed claim or cause)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))),(13 (Recovery of money/property - 548 fraudulent transfer))

FR. 3-10-20; 3-11-20; 6-16-20; 9-15-20; 9-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-2021 AT 10:00 A.M.**

**Tentative Ruling:**

9/22/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Defendant(s):**

Michael Bonert

Represented By  
Alan W Forsley

Vivien Bonert

Represented By  
Alan W Forsley

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**Tuesday, December 15, 2020**

**Hearing Room 1568**

11:00 AM

**CONT... Michael Bonert**

**Chapter 11**

Bonert's Incorporated dba Bonert's	Pro Se
Bonert Management Company, Inc.	Represented By Lawrence M Jacobson
Bonert's Jadahasa, LLC	Represented By Lawrence M Jacobson
Bonert's MV, LLC	Represented By Lawrence M Jacobson
Bonert's Mibon LLC	Represented By Lawrence M Jacobson
Beefam, LLC	Represented By Lawrence M Jacobson
DOES 1-10	Pro Se
3144 Bonert's LLC	Represented By Lawrence M Jacobson

**Joint Debtor(s):**

Vivien Bonert	Represented By Alan W Forsley
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**Plaintiff(s):**

Packaging Corporation of America	Represented By Scott E Blakeley
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

11:00 AM

2:19-20836 Michael Bonert and Vivien Bonert

Chapter 11

#108.00 Hearing re [339] Debtp'r's chapter 11 case status

Docket 0

\*\*\* VACATED \*\*\* REASON: CONTINUED 3-9-21 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Bonert

Represented By  
Alan W Forsley

**Joint Debtor(s):**

Vivien Bonert

Represented By  
Alan W Forsley

**Trustee(s):**

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

1:00 PM

2:20-16475 Neumedicines, Inc.

Chapter 11

#200.00 Continued Hearing

RE: [114] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Debtor's Motion for Order: (1) Approving the Sale of Substantially All Assets Free and Clear of Liens, Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f)(4); (2) Approving the Assumption and Assignment of Certain Executory Contracts; and (3) Entering Findings Related to the Sale; Memorandum of Points and Authorities; Declarations of Daniel J. Weintraub, Timothy K. Gallaher and Raphael Nir in Support Thereof.

fr. 12-10-20

Docket 114

**\*\*\* VACATED \*\*\* REASON: WILL BE HEARD AT 3:00 .M. TODAY**

**Tentative Ruling:**

12/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 15, 2020

Hearing Room 1568

3:00 PM

2:20-16475 Neumedicines, Inc.

Chapter 11

#300.00 Continued Hearing

RE: [114] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Debtor's Motion for Order: (1) Approving the Sale of Substantially All Assets Free and Clear of Liens, Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f)(4); (2) Approving the Assumption and Assignment of Certain Executory Contracts; and (3) Entering Findings Related to the Sale; Memorandum of Points and Authorities; Declarations of Daniel J. Weintraub, Timothy K. Gallaher and Raphael Nir in Support Thereof.

fr. 12-10-20

Docket 114

**Tentative Ruling:**

12/14/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required.

**Party Information**

**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, December 16, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#1.00 Hearing

RE: **[6218]** Application for Compensation Final Application of **DENTONS US LLP**, as Debtors Counsel, for Fees and Expense Reimbursement, Including for the Period May 1, 2020 through September 4, 2020; Declaration of John A. Moe, II for Dentons US LLP, Debtor's Attorney, Period: 8/31/2018 to 9/4/2020, Fee: \$21213257.14, Expenses: \$391189.62.

Docket 6218

**\*\*\* VACATED \*\*\* REASON: AMENDED MOTION FILED 11-6-20  
[D.E. 6238]**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, December 16, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

- #1.10 Hearing RE: **[6238] Amended** Final Application Of **DENTONS US LLP** , As Debtors Counsel, For Fees And Expense Reimbursement, Including For The Period May 1, 2020 Through September 4, 2020; Declaration Of John A. Moe, II for Dentons US LLP, Debtor's Attorney, Period: 8/18/2018 to 9/4/2020, Fee: \$22032930.86, Expenses: \$391189.62.

Docket 6238

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On September 28, 2018, the Court entered an order approving the Debtors' application to employ Dentons US LLP ("Dentons") as the Debtors' general bankruptcy counsel. *See* Doc. No. 712.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

Dentons seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 4, 2020 (the "Sixth Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. Nos. 6218 and 6238 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of Peter Chadwick [Doc. No. 6275] in support thereof, the Court approves as final the fees and expenses requested in connection with the Sixth Interim Period, and confirms as final all fees and expenses previously

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Courtroom 1568 Calendar**

**Wednesday, December 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

awarded on an interim basis, as follows:

Fees: \$22,032,930.86 (consisting of \$17,934,607.27 in previous interim awards and \$4,098,323.59 awarded in connection with the Sixth Interim Period)

Expenses: \$391,189.62 (consisting of \$304,763.28 in previous interim awards and \$86,426.34 awarded in connection with the Sixth Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, December 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Nicholas C Brown

Anna Kordas

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, December 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#2.00 Hearing**

RE: [6214] Application for Compensation Berkeley Research Group, LLC's Sixth Interim And Final Fee Application For Allowance And Payment Of Interim And Final Compensation And Reimbursement Of Expenses For The Period August 31, 2018 and September 4, 2020 for Berkeley Research Group LLC, Financial Advisor, Period: 8/31/2018 to 9/4/2020, Fee: \$22,904,609.1, Expenses: \$1,441,594.63.

Docket 6214

**Tentative Ruling:**

12/15/2020

See Cal. No. 2.10, below, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigitte G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas



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Central District of California  
Los Angeles  
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Chapter 11

- #2.10 Hearing RE: **[6237]** Application for Compensation **BERKELEY RESEARCH GROUP**, LLC's First Supplemental Twenty-Fourth Monthly, Sixth Interim And Final Fee Application For Allowance And Payment Of Interim And Final Compensation And Reimbursement Of Expenses For The Period August 31, 2018 Through September 4, 2020 for Berkeley Research Group LLC, Financial Advisor, Period: 8/31/2018 to 9/4/2020, Fee: \$22,935,294.1, Expenses: \$1,441,594.63.

Docket 6237

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 7, 2018, the Court entered an order approving the Debtors' application to employ Berkeley Research Group, LLC ("BRG") as the Debtors' financial and restructuring advisor. *See* Doc. No. 785.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

BRG seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 4, 2020 (the "Sixth Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. Nos. 6214 and 6237 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of Peter Chadwick [Doc. No. 6214] in support thereof, the Court approves as final the fees and expenses requested in connection

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with the Sixth Interim Period, and confirms as final all fees and expenses previously awarded on an interim basis, as follows:

Fees: \$22,935,294.14 (consisting of \$19,246,238.64 in previous interim awards and \$3,689,055.50 awarded in connection with the Sixth Interim Period)

Expenses: \$1,441,594.63 (consisting of \$1,354,534.35 in previous interim awards and \$87,060.28 awarded in connection with the Sixth Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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**Hearing Room 1568**

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10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Gary D Underdahl  
Nicholas C Brown  
Anna Kordas

**Chapter 11**

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Los Angeles  
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**Chapter 11**

**#3.00** HearingRE: **[6219]** Application for Compensation for **NELSON HARDIMAN** LLP, Special Counsel, Period: 8/31/2018 to 9/4/2020, Fee: \$3457988.38, Expenses: \$40478.43.

Docket 6219

**Tentative Ruling:**

12/15/2020

See Cal. No. 3.10, below, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

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Los Angeles  
Judge Ernest Robles, Presiding  
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**Chapter 11**

**#3.10** Hearing re **[6231]** Supplement To Final Application of **NELSON HARDIMAN, LLP**  
For Allowance And Payment of Compensation And Reimbursement Of Expenses

Docket 0

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On October 30, 2018, the Court entered an order approving the Debtors' application to employ Nelson Hardiman, LLP ("Nelson Hardiman") as the Debtors' special healthcare regulatory counsel. *See* Doc. No. 713.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

Nelson Hardiman seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 4, 2020 (the "Sixth Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. No. 6231 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of Peter Chadwick [Doc. No. 6245] in support thereof, the Court approves as final the fees and expenses requested in connection with the Sixth Interim Period, and confirms as final all fees and expenses previously awarded on an interim basis, as follows:

Fees: \$3,417,509.95 (consisting of \$3,163,905.75 in previous interim awards, \$230,831.00 awarded in connection with the Sixth Interim Period, and \$22,773.20 awarded for the cost of preparing the Application)

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**Chapter 11**

Expenses: \$42,135.88 (consisting of \$39,571.98 in previous interim awards and \$2,563.90 awarded in connection with the Sixth Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

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Central District of California  
Los Angeles  
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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#4.00 Hearing

RE: **[6203]** Application for Compensation [Final] for **PACHULSKI STANG ZIEHL & JONES LLP**, Debtor's Attorney, Period: 9/1/2018 to 9/4/2020, Fee: \$3,414,124.74, Expenses: \$46,687.44.

Docket 6203

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 14, 2018, the Court entered an order approving the Debtors' application to employ Pachulski Stang Ziehl & Jones, LLP ("PSZJ") as the Debtors' conflicts counsel. *See* Doc. No. 818.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

PSZJ seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 4, 2020 (the "Sixth Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. Nos. 6203 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of Hope Levy-Biehl [Doc. No. 6203] in support thereof, the Court approves as final the fees and expenses requested in connection with the Sixth Interim Period, and confirms as final all fees and expenses previously awarded on an interim basis, as follows:

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Fees: \$3,414,124.74 (consisting of \$2,563,268.37 in previous interim awards and \$850,856.37 awarded in connection with the Sixth Interim Period)

Expenses: \$46,687.44 (consisting of \$41,343.12 in previous interim awards and \$5,344.32 awarded in connection with the Sixth Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas



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Chapter 11

#5.00 Hearing RE: **[6192]** Application for Compensation **BARTKO ZANKEL BUNZEL & MILLER's** Second and Final Application for Allowance and Payment of Compensation and Reimbursement of Expenses for (I) the Interim Fee Period (May 1, 2020 - Sept. 4, 2020), and (II) the Final Fee Period (Jan. 9, 2020 - Sept. 4, 2020); Decl. of An Nguyen Ruda in Support Thereof for Kerry L Duffy, Debtor's Attorney, Period: 5/1/2020 to 9/4/2020, Fee: \$962,738.00, Expenses: \$11,512.69.

Docket 6192

\*\*\* VACATED \*\*\* REASON: AMENDED MOTION FILED 11-9-20 [DE 6248]

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#5.10 Hearing

RE: **[6248]** Application for Compensation Amendment to **BARTKO ZANKEL BUNZEL & MILLER'S** Second and Final Application for Allowance and Payment of Compensation and Reimbursement of Expenses for (I) the Second Interim Fee Period (May 1, 2020 - Sept. 4, 2020), and (II) the Final Fee Period (Jan. 9, 2020 - Sept. 4, 2020) [Docket No. 6192] for Kerry L Duffy, Debtor's Attorney, Period: 1/9/2020 to 9/4/2020, Fee: \$1,602,270.00, Expenses: \$21,226.70.

Docket 6248

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On February 27, 2020, the Court entered an order approving the Debtors' application to employ Bartko Zankel Bunzel & Miller ("BZBM") as the Debtors' special labor and employment counsel. *See* Doc. No. 4182.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

BZBM seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 4, 2020 (the "Second Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. Nos. 6192 and 6248 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of Peter Chadwick [Doc. No. 6247] in support thereof, the Court approves as final the fees and expenses requested in connection

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**Chapter 11**

with the Sixth Interim Period, and confirms as final all fees and expenses previously awarded on an interim basis, as follows:

Fees: \$1,602,270.00 (consisting of \$630,052.00 in previous interim awards, \$962,738.00 awarded in connection with the Second Interim Period, and \$9,480.00 awarded for the cost of preparing the Application)

Expenses: \$21,226.70 (consisting of \$9,714.01 in previous interim awards and \$11,512.69 awarded in connection with the Second Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

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Brigette G McGrath  
Gary D Underdahl  
Nicholas C Brown  
Anna Kordas

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Los Angeles  
Judge Ernest Robles, Presiding  
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#6.00 Hearing RE: [6180] Application for Compensation **JEFFER MANGELS BUTLER & MITCHELL LLP' s** Final Application for Allowance and Payment of Compensation and Reimbursement of Expenses; Declaration of Thomas M. Geher for Jeffer Mangels Butler & Mitchell LLP, Special Counsel, Period: 6/1/2019 to 9/4/2020, Fee: \$1,216,744.50, Expenses: \$58,855.55. (Geher, Thomas)

Docket 6180

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On August 7, 2019, the Court entered an order approving the Debtors' application to employ Jeffer Mangels Butler & Mitchell LLP ("JMBM") as the Debtors' special labor and employment counsel. *See* Doc. No. 2862.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

JMBM seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 4, 2020 (the "Fourth Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. No. 6180 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of Peter Chadwick [Doc. No. 6184] in support thereof, the Court approves as final the fees and expenses requested in connection with the Sixth Interim Period, and confirms as final all fees and expenses previously

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CONT... Verity Health System of California, Inc. and NCMB No.3,

Chapter 11

awarded on an interim basis, as follows:

Fees: \$1,216,744.50 (consisting of \$1,192,099.50 in previous interim awards and \$24,645.00 awarded in connection with the Fourth Interim Period)

Expenses: \$58,855.55 (consisting of \$58,113.03 in previous interim awards and \$742.52 awarded in connection with the Fourth Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

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Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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Nicholas C Brown  
Anna Kordas**

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Los Angeles  
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**#7.00** Hearing

RE: **[6213]** Application for Compensation for Final Fee Application and Declaration of Hope Levy-Biehl for **DAVIS WRIGHT TREMAINE**, LLP, Special Counsel, Period: 2/14/2020 to 9/4/2020, Fee: \$1,024,543.50, Expenses: \$2,967.69. (Haas, Mary)

Docket 6213

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On June 3, 2020, the Court entered an order authorizing the Debtors to employ Davis Wright Tremaine LLP ("DWT") as the Debtors' special healthcare regulatory counsel. *See* Doc. No. 4668.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

DWT seeks the final allowance of fees and expenses for the period between February 14, 2020 and September 4, 2020 (the "Application Period"). *See* Doc. No. 6213 (the "Application"). The Court has not previously awarded any interim fees and expenses to DWT.

No objections to the Application have been filed. Having reviewed the Application and the declaration of Peter Chadwick [Doc. No. 6267] in support thereof, the Court approves as final the fees and expenses requested, as follows:

Fees: \$1,024,543.50 (consisting of \$1,011,878.25 incurred during the Application



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Period plus \$12,665.25 incurred in connection with the preparation of the Application)

Expenses: \$2,967.69

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

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Central District of California  
Los Angeles  
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#8.00 Hearing

RE: **[6221]** Application for Compensation /First and Final Fee Application for **CAIN BROTHERS** a division of KeyBanc Capital Markets, Financial Advisor, Period: 8/31/2018 to 9/4/2020, Fee: \$8,242,327.9, Expenses: \$0.00.

Docket 6221

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 5, 2018, the Court entered an order authorizing the Debtors to employ Cain Brothers, a division of KeyBanc Capital Markets Inc. ("Cain Brothers") as the Debtors' investment banker. *See* Doc. No. 767 (the "Employment Order"). The Court approved Cain Brothers' employment pursuant to § 328, in accordance with the terms of an Engagement Letter entered into between the Debtors and Cain Brothers. Pursuant to the Employment Order, Cain Brothers is entitled to compensation pursuant to a fee structure (the "Fee Structure") set forth in the Engagement Letter.

Cain Brothers seeks the final allowance of fees consistent with the Fee Structure approved by the Employment Order. *See* Doc. No. 6221 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of James Moloney [Doc. No. 6221] in support thereof, the Court approves as final the fees requested in the Application, as follows:

Fees: \$8,242,327.98

Expenses: \$0.00

To the extent not previously paid, the fees and expenses set forth above may be paid

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from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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Chapter 11

#9.00 Hearing

RE: **[6204]** Application for Compensation Sixth and Final Application of Milbank LLP for Approval and Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for **MILBANK, TWEED, HADLEY & MCCLOY**, Creditor Comm. Atty, Period: 9/14/2018 to 9/4/2020, Fee: \$11243178.99, Expenses: \$203,020.06.

Docket 6204

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 6, 2018, the Court entered an order authorizing the employment of Milbank LLP ("Milbank") as counsel to the Official Committee of Unsecured Creditors (the "Committee"). *See* Doc. No. 778.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

Milbank seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 4, 2020 (the "Sixth Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. No. 6204 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of Michael Strollo [Doc. No. 6210] in support thereof, the Court approves as final the fees and expenses requested in connection with the Sixth Interim Period, and confirms as final all fees and expenses previously awarded

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

on an interim basis, as follows:

Fees: \$11,243,178.99 (consisting of \$9,776,877.49 in previous interim awards and \$1,466,301.50 awarded in connection with the Sixth Interim Period)

Expenses: \$203,020.06 (consisting of \$177,377.00 in previous interim awards and \$25,643.06 awarded in connection with the Sixth Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT...**

**Verity Health System of California, Inc.**

Nicholas C Brown

Anna Kordas

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, December 16, 2020

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#10.00 Hearing

RE: **[6209]** Application for Compensation Third Interim and Final Application of **ARENT FOX LLP** for Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al., Creditor Comm. Atty, Period: 1/1/2019 to 9/18/2020, Fee: \$162,227.50, Expenses: \$163.43.

Docket 6209

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On March 5, 2019, the Court entered an order authorizing the Official Committee of Unsecured Creditors to employ Arent Fox LLP ("Arent Fox") as its special health and regulatory counsel. *See* Doc. No. 1703.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

Arent Fox seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 18, 2020 (the "Third Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. No. 6209 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of Michael Strollo [Doc. No. 6210] in support thereof, the Court approves as final the fees and expenses requested in connection with the Third Interim Period, and confirms as final all fees and expenses previously awarded

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Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

on an interim basis, as follows:

Fees: \$162,227.50 (consisting of \$147,690.50 in previous interim awards and \$14,537.00 awarded in connection with the Third Interim Period)

Expenses: \$163.43 (consisting of \$82.43 in previous interim awards and \$81.00 awarded in connection with the Third Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl



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Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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**Verity Health System of California, Inc.**

Nicholas C Brown

Anna Kordas

**Chapter 11**

**United States Bankruptcy Court  
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Los Angeles  
Judge Ernest Robles, Presiding  
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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#11.00 Hearing

RE: **[6205]** Application for Compensation Sixth Interim and Final Application of, **FTI CONSULTING Inc.** for Approval and Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred for FTI Consulting, Inc., Financial Advisor, Period: 9/14/2018 to 9/4/2020, Fee: \$4,464,135.00, Expenses: \$26,057.13.

Docket 6205

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On November 14, 2018, the Court entered an order authorizing the employment of FTI Consulting, Inc. ("FTI") as financial advisor to the Official Committee of Unsecured Creditors. *See* Doc. No. 822.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

FTI seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 4, 2020 (the "Sixth Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. No. 6205 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of Michael Strollo [Doc. No. 6210] in support thereof, the Court approves as final the fees and expenses requested in connection with the Sixth Interim Period, and confirms as final all fees and expenses previously awarded

**United States Bankruptcy Court  
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Los Angeles  
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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

on an interim basis, as follows:

Fees: \$4,464,135.00 (consisting of \$3,779,904.00 in previous interim awards and \$684,231.00 awarded in connection with the Sixth Interim Period)

Expenses: \$26,057.13 (consisting of \$24,512.83 in previous interim awards and \$1,544.30 awarded in connection with the Sixth Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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**CONT...**

**Verity Health System of California, Inc.**

Nicholas C Brown

Anna Kordas

**Chapter 11**

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Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#12.00 Hearing

RE: **[6198]** Application for Compensation -[Application for Payment of Final Fees and Expenses (POS Attached)]- for **LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.**, Ombudsman Health, Period: 10/1/2018 to 8/31/2020, Fee: \$213,519.00, Expenses: \$3,542.06.

Docket 6198

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On October 9, 2018, the Court entered an order appointing Jacob Nathan Rubin, MD as the patient care ombudsman (the "PCO") in these cases. *See* Doc. No. 430. On November 2, 2018, the Court approved the PCO's application to employ Levene, Neale, Bender, Yoo & Brill, LLP ("LNBYB") as his counsel. *See* Doc. No. 751.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

LNBYB seeks the final allowance of fees and expenses for the period between May 1, 2020 and September 4, 2020 (the "Fourth Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. Nos. 6198 (the "Application").

No objections to the Application have been filed. Having reviewed the Application and the declaration of the PCO [Doc. No. 6198] in support thereof, the Court approves as final the fees and expenses requested in connection with the Fourth Interim Period, and confirms as final all fees and expenses previously awarded on an

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Central District of California  
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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

interim basis, as follows:

Fees: \$218,519.00 (consisting of \$185,993.00 in previous interim awards, \$27,526.00 awarded in connection with the Fourth Interim Period, and \$5,000.00 awarded for preparing the Application)

Expenses: \$3,976.31 (consisting of \$3,542.06 in previous interim awards and \$434.25 awarded in connection with the Fourth Interim Period)

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
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**CONT...**

**Verity Health System of California, Inc.**

Gary D Underdahl  
Nicholas C Brown  
Anna Kordas

**Chapter 11**

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Chapter 11

#13.00 Hearing

RE: **[6197]** Application for Compensation -[Application for Payment of Final Fees and Expenses (POS Attached)]- for **JACOB NATHAN RUBIN**, Ombudsman Health, Period: 10/1/2018 to 8/31/2020, Fee: \$1,612,505.00, Expenses: \$3,414.97.

Docket 6197

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

On September 25, 2018, the Court entered an order directing the United States Trustee (the "UST") to appoint a Patient Care Ombudsman (the "PCO"). Doc. No. 283. On October 9, 2018, the Court entered an order approving the UST's appointment of Dr. Jacob Nathan Rubin, MD, FACC, as the PCO. *See* Doc. No. 430. On November 2, 2018, the Court authorized Dr. Rubin to employ Dr. Tim Stacy, DNP, ACNP-BC as a consultant to assist him with the discharge of his duties. *See* Doc. No. 753.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). *See* Doc. No. 5504. The Plan provides that professional fees awarded by the Court subsequent to the Plan's Effective Date shall be paid from the Effective Date Professional Claim Reserve.

The PCO and Dr. Stacy seek the final allowance of fees and expenses for the period between May 1, 2020 and August 31, 2020 (the "Third Interim Period"), as well as the final allowance of fees and expenses previously awarded on an interim basis. *See* Doc. No. 6197 (the "Application").

No objections to the Application have been filed. Having reviewed the



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Los Angeles  
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CONT... Verity Health System of California, Inc.

Chapter 11

Application and the declarations of the PCO and Dr. Stacy [Doc. No. 6197] in support thereof, the Court approves as final the fees and expenses requested in connection with the Third Interim Period, and confirms as final all fees and expenses previously awarded on an interim basis, as follows:

**PCO:**

Fees: \$1,032,412.50 (consisting of \$733,537.50 in previous interim awards and \$298,875.00 awarded in connection with the Third Interim Period)

Expenses: \$3,414.97 (consisting of a previous interim award of \$3,414.97; no additional expenses are sought in connection with the Third Interim Period)

**Dr. Stacy:**

Fees: \$580,092.50 (consisting of \$425,419.00 in previous interim awards and \$154,673.50 awarded in connection with the Third Interim Period)

Expenses: \$0.00

To the extent not previously paid, the fees and expenses set forth above may be paid from the Effective Date Professional Claim Reserve in accordance with the Plan, subject to available cash on hand.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz, the Judge's Law Clerks, at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, December 16, 2020**

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**Verity Health System of California, Inc.**

**Chapter 11**

John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy  
Brigette G McGrath  
Gary D Underdahl  
Nicholas C Brown  
Anna Kordas

**United States Bankruptcy Court  
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Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#14.00** Hearing RE: **[6197]** Application for Compensation -[Application for Payment of Final Fees and Expenses (POS Attached)]- for **DR. TIM STACY, DNP**, Ombudsman Health, Period: 10/1/2018 to 8/31/2020, Fee: \$1,612,505.00, Expenses: \$3,414.97.

Docket 6197

**Tentative Ruling:**

12/15/2020

See Cal. No. 13, below, incorporated in full by reference.

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#15.00

Hearing

RE: [5367] Motion to Allow Claims filed by Creditor AppleCare Medical Management, LLC, Creditor AppleCare Medical Group, Inc., Creditor AppleCare Medical Group St. Francis, Inc., [ 5445] Motion to Allow Claims filed by Creditor AppleCare Medical Management, LLC, Creditor AppleCare Medical Group, Inc.

FR. 11-24-20

Docket 5367

\*\*\* VACATED \*\*\* REASON: WITHDRAWAL FILED 12-7-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01575 St. Vincent Medical Center, a California nonprofit v. California Physicians'

**#15.10** Hearing  
RE: [13] Motion to Dismiss Adversary Proceeding ): Blue Shield of Californias  
Notice of Motion and Motion to: (1) Dismiss Claims for Turnover, Violation of the  
Automatic Stay and Unjust Enrichment; and (2) Compel Arbitration and Stay  
Adversary Proceeding; Memorandum of Points and Authorities (Reynolds,  
Michael)

FR. 11-24-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Defendant(s):**

California Physicians' Service, a

Represented By  
Michael B Reynolds

**Plaintiff(s):**

St. Vincent Medical Center, a

Represented By  
Steven J Kahn

Seton Medical Center, a California

Represented By  
Steven J Kahn

O'Connor Hospital, a California

Represented By  
Steven J Kahn

Saint Louise Regional Hospital, a

Represented By  
Steven J Kahn

**United States Bankruptcy Court  
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Los Angeles  
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Wednesday, December 16, 2020

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10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01559 ST. VINCENT MEDICAL CENTER, a California nonprofit v. BLUE

**#15.20** Hearing  
RE: [12] Motion to Dismiss Adversary Proceeding Blue Shield of California Promise Health Plans Notice of Motion and Motion to: (1) Dismiss Claims for Turnover, Violation of the Automatic Stay and Unjust Enrichment; and (2) Compel Arbitration and Stay Adversary Proceeding; Memorandum of Points and Authorities (Reynolds, Michael)

FR. 11-24-20

Docket 12

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, December 16, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Defendant(s):**

BLUE SHIELD OF CALIFORNIA

Represented By  
Michael B Reynolds

**Plaintiff(s):**

ST. VINCENT MEDICAL

Represented By  
Steven J Kahn

Seton Medical Center, a California

Represented By  
Steven J Kahn

O'Connor Hospital, a California

Represented By  
Steven J Kahn

Saint Louise Regional Hospital, a

Represented By  
Steven J Kahn



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, December 16, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

**#15.30** Hearing  
RE: [6144] Motion for Allowance of Administrative Expense Claim and Request  
for Payment under 11 U.S.C. § 503(b) (Reynolds, Michael)

FR. 12-9-20

Docket 6144

**\*\*\* VACATED \*\*\* REASON: CONTINUED 1-20-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

**United States Bankruptcy Court  
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Los Angeles  
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2:18-20151 Verity Health System of California, Inc.

Chapter 11

#15.40 Hearing re [6271] Motion To Approve Terms And Conditions of A Private Sale of Equity Interests In Marillac Insurance Company, Ltd. To Randall & Quilter II Holdings Limited Pursuant To § 363.

Docket 0

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

The Court will conduct an auction of Marillac, at which Randall and ACG/TCI will be permitted to bid, in accordance with the procedures set forth below.

**Pleadings Filed and Reviewed:**

- 1) Notice and Motion to Approve Terms and Conditions of a Private Sale of Equity Interests in Marillac Insurance Company, Ltd. to Randall & Quilter II Holdings Limited Pursuant to § 363 [Doc. No. 6271] (the "Sale Motion")
  - a) Notice of Exhibit "B" to [Sale Motion] [Doc. No. 6308]
  - b) Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Docket Numbers 6270 and 6271 [Doc. No. 6290]
- 2) Objection of Annapolis Consulting Group, Inc. to Debtors' [Sale Motion] [Doc. No. 6280]
- 3) Response in Support of [Sale Motion] [Doc. No. 6287]

**I. Facts and Summary of Pleadings**

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. Doc. No. 17.

Marillac Insurance Company, Ltd. ("Marillac") is the Debtors' captive insurer and

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CONT... **Verity Health System of California, Inc.**

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is organized in the Cayman Islands. VHS is the sole owner of Marillac, and the Debtors are the sole customers of Marillac. Marillac has issued insurance policies providing general and professional liability ("GLPL") coverage to the Debtors.

On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* (the "Plan"). See Doc. No. 5504. The Plan provides that certain of the Debtors shall remain in existence subsequent to the Effective Date of the Plan for the purpose of winding up various operations (the "Post-Effective Date Debtors"). As relevant to Marillac, the Plan provides that "VHS, in its capacity as a Debtor and/or Post-Effective Date Debtor, and/or the Liquidating Trustee shall take such action as reasonably necessary and advisable to effectuate the sale, disposition, and or other administration of the issued and outstanding equity interests in, or assets of, Marillac. The net Cash proceeds of such sale, disposition, or other administration, if any, shall be used to pay Holders of Claims as set forth in this Plan or as otherwise agreed pursuant to a Creditor Settlement Agreement." Plan at § 5.7.

On November 25, 2020, the Post-Effective Date Debtors and the Liquidating Trustee (collectively, the "Movants") filed a motion to approve the private sale of Marillac to Randall & Quilter II Holdings Limited ("Randall") for the purchase price of (a) \$1 million in cash, (b) the assumption of the obligation to provide GLPL tail coverage of \$5 million per occurrence, and (c) the forgiveness of \$2.2 million of premium receivable. See Doc. No. 6271 (the "Sale Motion"). Movants request that Randall be granted an expense reimbursement of \$150,000 in the event a higher bid is approved at the hearing on the Sale Motion (the "Sale Hearing"). Movants state that Randall would not have agreed to purchase Marillac absent the requested expense reimbursement.

Annapolis Consulting Group, Inc. ("ACG") and TCI Holdings, Inc. ("TCI," and together with ACG, "ACG/TCI") filed an opposition to the Sale Motion (the "Opposition"), in which ACG/TCI state that they have submitted a bid for Marillac superior to Randall's, and that the Court should either approve the ACG/TCI bid or require an auction. ACG/TCI request that if an auction is conducted, ACG/TCI be deemed the stalking horse bidder and receive the same expense reimbursement proposed by the Movants for Randall.

In reply to the Opposition, Movants state that they are evaluating the bids of Randall and ACG/TCI and that Movants will file an update on the status of both bids and Movant's position related thereto on December 15, 2020. Movants request that

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the Court conduct an auction between Randall and ACG/TCI on the date originally noticed for the Sale Motion, as opposed to requiring a further auction process. Movants note that Marillac has been extensively marketed and that a delay in closing the sale beyond December 31, 2020 will result in losses of approximately \$175,000 (consisting of \$130,000 of lost premium refund from excess reinsurers plus \$45,000 in additional monthly fees required to be paid to a third party administrator).

## II. Findings and Conclusions

Section 363(b) authorizes an estate representative to sell estate property out of the ordinary course of business, subject to court approval. "The court's obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances." *Simantob v. Claims Prosecutor, LLC (In re Lahijani)*, 325 B.R. 282, 288 (B.A.P. 9th Cir. 2005).

At the Sale Hearing, the Court will conduct an auction at which Randall and ACG/TCI will be permitted to bid for Marillac. Since Marillac has been extensively marketed by the Debtors' insurance broker, the Lockton Companies, LLC ("Lockton"), the Court does not find it necessary to require the Movants to conduct a separate auction process. In fact, a separate auction would reduce the value received for Marillac since premium refunds will be forfeited if the sale does not close prior to December 31, 2020.

The Court notes that ACG/TCI and Movants devote substantial space in their papers to allegations concerning the manner in which the Debtors conducted the marketing process. According to ACG/TCI, the Debtors failed to meaningfully engage with ACG/TCI and did not give appropriate consideration to ACG/TCI's bids. Movants dispute these allegations.

The sole concern of the Court is ensuring that Marillac is sold for the highest price. Since both ACG/TCI and Randall will now be participating in the auction, what previously occurred during the marketing process is no longer relevant. At this juncture, allegations concerning what the Debtors and/or Lockton did or did not do during the marketing process are of no assistance to the Court, and such allegations will not be entertained at the Sale Hearing.

The Court declines to approve the requested \$150,000 expense reimbursement for Randall. Bid protections such as an expense reimbursement are approved only if the bid protection enhances the bidding process:

[T]he dominant issue that faces a court when determining the propriety of a

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break-up fee is whether the offer made by the party seeking the fee will enhance or hinder the bidding process. If the break-up fee encourages bidding, it will be approved, if it stifles bidding, it will not be approved. A break-up fee may discourage an auction process and preclude further bidding when the fee is so large as to make competing bids too expensive. Thus, when the fee is so large that it chills the bidding process, it will not be protected by the business judgment rule.

*In re Integrated Res., Inc.*, 135 B.R. 746, 750 (Bankr. S.D.N.Y.), *aff'd*, 147 B.R. 650 (S.D.N.Y. 1992).

Here, Movants initially sought a private sale to Randall, did not designate Randall as the stalking horse bidder, and agreed to conduct an auction only after ACG/TCI objected to the Sale Motion. [Note 1] An expense reimbursement is an oxymoron in the context of a private sale in which no auction is contemplated. Here, Randall has sought to obtain the benefit of bid protections without bearing the corresponding cost of subjecting its bid to an auction. As set forth in the Declaration of Lisa K. Wall, an Executive Vice President at Lockton, Randall's "offer is dependent on the Sale proceeding as a private sale," but is simultaneously dependent on the \$150,000 expense reimbursement. Wall Decl. at ¶ 12. The Court declines to permit Randall to benefit from bid protections where Randall has attempted to circumvent the auction process that is the very reason why bid protections are granted.

The Court also declines to designate ACG/TCI as the stalking horse bidder and award it bid protections. As noted, bid protections are approved only to facilitate the bidding process. Here, ACG/TCI and Randall have both emerged as bidders despite the fact that no auction was originally contemplated. At this point, bid protections would do nothing to encourage other bidders. In addition, it does not appear to the Court that bid protections are necessary to induce either ACG/TCI or Randall to participate in the auction.

The bids submitted by both ACG/TCI and Randall involve the forgiveness of \$2.2 million of premium receivable and the provision of \$5 million in GLPL insurance coverage. The only difference between the bids is the cash amount. The provisions regarding GLPL insurance coverage and premium forgiveness were a key aspect of the sale transaction negotiated by the Movants. Therefore, no variation to these provisions will be permitted at the auction. The auction will be conducted based only on the cash portion of the bids.

ACG/TCI's cash bid of \$1.6 million will be deemed the opening bid. The initial

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overbid shall be \$1.7 million, with subsequent overbids to be in increments of \$100,000. The overbid increment is subject to adjustment by the Court to facilitate bidding.

As of the issuance of this tentative ruling, Movants' statement of position regarding whether ACG/TCI or Randall has submitted the best bid is not yet on file. The Court will take Movants' statement into consideration in determining whether ACG/TCI or Randall has submitted the highest and best bid. *See In re 160 Royal Palm, LLC*, 600 B.R. 119, 129 (S.D. Fla.), *aff'd*, 785 F. App'x 829 (11th Cir. 2019), *cert. denied sub nom. KK-PB Fin., LLC v. 160 Royal Palm, LLC*, No. 19-1456, 2020 WL 6037217 (U.S. Oct. 13, 2020) (emphasis in original) ("[W]hile a debtor has a duty to 'maximize the return to a bankruptcy estate,' which 'often does require [the] recommendation of the highest monetary bid, *overemphasis of this usual outcome overlooks a fundamental truism, i.e., a "highest" bid is not always the "highest and best" bid.* The inclusion of "best" in that conjunction is not mere surplusage.').

At the conclusion of the auction, the Court will take testimony from the winning bidder to determine whether that bidder is entitled to the protections of § 363(m). To facilitate a prompt closing, the order approving the sale shall be effective immediately upon entry, notwithstanding Bankruptcy Rules 6004(h) and 6006(d).

The procedures proposed by Movants pertaining to the assumption and assignment of executory contracts and unexpired leases are approved. With respect to assumption/assignment issues, the following deadlines shall apply (capitalized terms have the meaning set forth in the Sale Motion):

- 1) Friday, December 18, 2020: Deadline for Movants to file the Cure Notice
- 2) Wednesday, December 30, 2020: Deadline for counterparties to Assigned Contracts to file an Assumption Objection
- 3) Wednesday, January 6, 2021: Deadline for Post-Effective Date Debtors/Liquidating Trustee to file and serve any reply to an Assumption Objection
- 4) Wednesday, January 13, 2021, at 10:00 a.m.: Assumption Objection Hearing

**Note 1**

Although the Sale Motion acknowledges the possibility that "the Court can consider any higher and better bid presented at the sale hearing," Sale Motion at 9, the relief requested is the approval of a private sale. *See* Sale Motion at 5 (requesting approval of "an expense reimbursement of \$150,000 if another bidder is approved by the Court despite this being proposed as a private sale").

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**Chapter 11**

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

Mary H Haas

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2:19-25003 Blanca Olivia Corrales

Chapter 7

#16.00 APPLICANT: Peter J. Mastan, Trustee

Hearing re [33] Trustee's Final Report and Applications for Compensation

Docket 0

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Trustee's Fees: \$625.00 [*see* Doc. No. 32]

Total Trustee's Expenses: \$47.45 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**



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**CONT... Blanca Olivia Corrales**

**Chapter 7**

**Debtor(s):**

Blanca Olivia Corrales

Represented By  
Jaime A Cuevas Jr.

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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**2:20-14808 SCHREINER'S FINE SAUSAGES, INC.**

**Chapter 11**

**#17.00** FINAL Hearing re [17] Motion For Authorization To Use Cash Collateral.

fr. 6-1-20; 7-15-20; 9-1-20

Docket 0

**Tentative Ruling:**

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**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

For the reasons set forth below, the Debtor is authorized to use cash collateral in accordance with the Budget through and including April 30, 2021. A hearing on the use of cash collateral subsequent to April 30, 2021 shall take place on **April 13, 2021, at 10:00 a.m.** The deadline for the Debtor to file a disclosure statement and plan of reorganization remains **February 28, 2021.**

The Debtor shall submit further evidence in support of the continued use of cash collateral, including an updated Budget, by no later than **March 23, 2021.** By that same date, the Debtor shall provide notice of the continued hearing and shall file a proof of service so indicating. Opposition to the continued use of cash collateral is due by **March 30, 2021;** the Debtors' reply to any opposition is due by **April 6, 2021.**

**Pleadings Filed and Reviewed:**

- 1) Declaration of Robert. B. Rosenstein in Support of Motion For Authorization to Use Cash Collateral And Provide Adequate Protection [Doc. No. 50] (the "Rosenstein Declaration")
- 2) Supplemental Declaration of Walter Thomas Schreiner in Support of Motion For Authorization to Use Cash Collateral And Provide Adequate Protection [Doc. No.

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- 90] (the "Supplemental Schreiner Decl.")
- 3) Notice of Continued Hearing on Motion For Authorization to Use Cash Collateral And Provide Adequate Protection [Doc. No. 81] (the "Motion")
  - 4) Order Granting Emergency Motion for Authorization to Use Cash Collateral [Doc. No. 29]
  - 5) Court's Findings and Conclusions re Authorization to Use Cash Collateral [Doc. No. 27]
  - 6) Emergency Motion for Authorization to Use Cash Collateral [Doc. No. 20]
    - a) Declaration of Walter Thomas Schreiner (the "Schreiner Decl.")
  - 7) As of the preparation of this tentative ruling, no objection is on file

### **I. Facts and Summary of Pleadings**

Debtor and debtor-in-possession, Schreiner's Fine Sausages, Inc. (the "Debtor") filed a voluntary chapter 11 petition on May 26, 2020 (the "Petition Date"). The Court previously entered an order authorizing Debtor to use cash collateral, on an interim basis, through and including July 15, 2020. *See* Doc. No. 29. On July 22, 2020, the Court authorized the extended use of cash collateral through and including August 31, 2020, and then again on September 2, 2020, through and including December 31, 2020, based on updated financial budgets submitted by the Debtor. *See* Doc. Nos. 51 & 77. The present hearing was set to determine whether the Debtor is entitled to use cash collateral subsequent to December 31, 2020. The Debtor seeks authorization to use cash collateral through and including April 31, 2021, on the terms and conditions previously approved by this Court. No opposition is on file.

The Debtor operates a family-owned wholesale and retail meat market and restaurant, conducting business as "Schreiner's Fine Sausages," and located at 3417 Ocean View Blvd., Glendale, California 91208 (the "Business"). The Business has been managed by the Schreiner family for three generations: Marcia Schreiner holds an 85% ownership stake in the Debtor, and her son, Walter Thomas Schreiner ("W.T. Schreiner"), holds the remaining 15% interest.

The Debtor's bankruptcy filing was precipitated by certain high-interest pre-petition business loans, which the Debtor was unable repay in light of the COVID-19 pandemic. The Debtor wishes to reorganize its debts and continue business operations. As of the Petition Date, the Debtor has secured debts in the estimated amount of \$315,822.32, as follows:

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- FC Marketplace, LLC, dba Funding Circle (“Funding Circle”)—\$248,000
- Celtic Bank Corporation (“Celtic Bank”)—\$56,000
- Bank of America—\$11,822.32

The following claims may be subject to a perfected security interest, but the Debtor believes these debts are unsecured:

- QuarterSpot, Inc. (“QuarterSpot”)—\$102,613.32 (based on proof of claim)
- BizFund, LLC (“BizFund”)—\$55,000

Cash collateral will be used to fund the Debtor’s ongoing operating expenses, while the Debtor continues to pursue its reorganization. *See* Doc. No. 20. In support of the continued use of cash collateral, the Debtor submitted an updated budget (the “Budget”), setting forth expected Business revenues and expenses through the month of April 2021. *See* Doc. No. 90. The Budget anticipates that the Business will generate estimated monthly sales ranging from \$137,000 to \$142,000 through the end of the April 2021, which will leave Debtor with monthly net income averaging approximately \$9,800. The Budget projects that business revenue, the costs of goods, and business expenses will remain relatively stable through April 2021. Consistent with the Debtor’s original Motion and this Court’s prior orders, the Debtor proposes to make adequate protection payments to Funding Circle in the amount of \$2,229.93 each month. The Debtor proposes to provide all other secured creditors with a replacement lien to the extent that the proposed cash collateral use dilutes the value of said creditors’ liens.

As of the preparation of this tentative ruling, no objection is on file.

## **II. Findings and Conclusions**

Section 363(c)(2) requires court authorization for the use of cash collateral unless "each entity that has an interest in such cash collateral consents." In the Ninth Circuit, satisfaction of §363(c)(2)(A) requires the "affirmative express consent" of the secured creditor; "implied consent," resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d

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362, 368–69 (9th Cir. 1987). Absent affirmative express consent, the Debtors "may not use" cash collateral absent the Court's determination that the use is "in accordance with the provisions" of Section 363—that is, that the secured creditor's interest in the cash collateral is adequately protected. § 363(c)(2)(B) and (e).

A secured creditor's interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365 (1988).

Based on the updated Budget figures, the Court reiterates most of the factual and legal conclusions rendered in previous ruling authorizing the use of cash collateral.

**The Secured Creditors' Interests are Adequately Protected**

The Court finds that the secured interest of Funding Circle in the Debtor's cash collateral is adequately protected. Funding Circle remains adequately protected through monthly adequate protection payments of \$2,229.93, and by the fact that the Debtor's financial projections indicate that the cash collateral is not declining in value, and business revenue will remain relatively constant. To the extent that other secured creditors claim an interest in the cash collateral, adequate protection will be provided to them by a replacement lien in post-petition property. Moreover, the Budget projects that the Debtor's business operations will continue to generate a steady stream of replacement income. *Cf. In re Megan-Racine Associates, Inc.*, 202 B.R. 660, 663 (Bankr. S.D.N.Y. 1996) (concluding that "[a]s long as there was a continuous income stream being generated by the Debtor, the fact that the Debtor consumed a portion of those monies to operate and maintain the facility each month did not diminish the value of the [secured creditor's] interest in the [cash collateral]"). In connection with previous cash collateral hearings, the Court concluded that secured creditors' liens were not falling in value. The Court finds it appropriate to maintain that finding until presented with concrete evidence to the contrary.

**The Debtor Will Suffer Irreparable Harm Absent Use of Cash Collateral**

The Court finds that the Debtor will suffer irreparable harm absent the continued use

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of cash collateral. Use of cash collateral is necessary for the Debtor to pay employees, who are instrumental in maintaining Debtor's revenue stream. If Debtor is unable to reliably make payroll, it is likely that employees will leave, and the Debtor will be unable to operate the Business. If the Debtor is forced into a liquidation proceeding, both secured and unsecured creditors may find it difficult to recover as much as they would if the Debtor is preserved as a going concern. *See* Schreiner Decl., ¶ 10 (opining that Debtor's equipment—one of the Debtor's most valuable assets—is likely to fall in value upon liquidation). Without the ability to use cash collateral to sustain operations, the Debtor would be irreparably harmed. As it did before, the Court determines that the expenditures stated on the updated Budget are necessary to the Debtor's continued reorganization efforts.

### **III. Conclusion**

For the reasons set forth below, the Debtor is authorized to use cash collateral in accordance with the Budget through and including April 30, 2021. A hearing on the use of cash collateral subsequent to April 30, 2021 shall take place on **April 13, 2021, at 10:00 a.m.** The deadline for the Debtor to file a disclosure statement and plan of reorganization remains **February 28, 2021.**

The Debtor shall submit further evidence in support of the continued use of cash collateral, including an updated Budget, by no later than **March 23, 2021.** By that same date, the Debtor shall provide notice of the continued hearing and shall file a proof of service so indicating. Opposition to the continued use of cash collateral is due by **March 30, 2021;** the Debtors' reply to any opposition is due by **April 6, 2021.**

The Debtor shall submit an order incorporating this tentative ruling by reference within seven days of the hearing

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Party Information**

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**Debtor(s):**

SCHREINER'S FINE SAUSAGES,

Represented By  
Robert B Rosenstein

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2:20-16475 Neumedicines, Inc.

Chapter 11

#18.00 Hearing

RE: [114] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Debtor's Motion for Order: (1) Approving the Sale of Substantially All Assets Free and Clear of Liens, Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f)(4); (2) Approving the Assumption and Assignment of Certain Executory Contracts; and (3) Entering Findings Related to the Sale; Memorandum of Points and Authorities; Declarations of Daniel J. Weintraub, Timothy K. Gallaher and Raphael Nir in Support Thereof.

fr. 12-10-20

Docket 114

**\*\*\* VACATED \*\*\* REASON: CONTINUED 12-21-20 AT 10:00 A.M.  
AND 12-22-20 AT 10:00 A.M.**

**Tentative Ruling:**

12/15/2020

Hearing required.

<b>Party Information</b>
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**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth



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**2:18-24265 Neilla M Cenci**

**Chapter 7**

**#100.00** Hearing re [27] *Creditor Ball C M, Incs Notice Of Objection To Claim Of Homestead Exemption And Objection To Homestead Exemption Claim*

fr. 5-8-19; 9-18-19; 3-18-20; 5-6-20; 8-5-20

Docket 0

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 8-19-20**

**Tentative Ruling:**

5/6/2019

For the reasons set forth below, CONTINUE HEARING to September 18, 2019 at 11:00 a.m.

Creditor Ball C M, Inc. ("Movant") seeks an order disallowing the Debtor's \$175,000 homestead exemption pursuant to § 522(o) [Doc. No. 27] (the "Objection to Homestead Exemption"). Section 522(o) "provides that the value of property claimed as a homestead must be reduced to the extent that the value is attributable to any fraudulent transfers of nonexempt property made by the debtor within 10 years prepetition." *In re McNabb*, 326 B.R. 785, 787-88 (Bankr. D. Ariz. 2005) (citing 11 U.S.C. § 522(o)). "In light of Congress' adoption in section 522(o) of the identical 'intent to hinder, delay or defraud' language found in section 548(a)(1)(A) and section 727(a)(2), courts may look to case law under these sections for guidance in construing the requisite intent under section 522(o)." 4 Collier on Bankruptcy, ¶ 522.08 (16th ed. 2019). Accordingly, a debtor's exemptible interest in homestead property should not be reduced absent a showing of specific intent to hinder, delay or defraud, but a party may rely upon certain "badges of fraud" to prove the existence of actual fraud. *Id.*

On March 7, 2019, Movant initiated an adversary proceeding against the Debtor by filing a complaint (the "Complaint") asserting claims under §§ 523(a)(2)(A), (a)(4), (a)(6) and 727(a)(2), (a)(3), (a)(4), and (a)(5) [2:19-ap-01605] (the "Non-Dischargeability Action"). The allegations set forth in the Complaint are substantially

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similar to the assertions underlying Movant's Objection to Homestead Exemption. Accordingly, it appears that any ruling with respect to the instant motion may have preclusive effect and potentially interfere with the Non-Dischargeability Action. Therefore, the Court finds it appropriate to defer ruling on the Objection to Homestead Exemption until the Non-Dischargeability Action has concluded.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Jessica Vogel at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Neilla M Cenci

Represented By  
James R Selth

**Trustee(s):**

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, December 16, 2020

Hearing Room 1568

11:00 AM

2:20-10821 Carmen Hernandez

Chapter 7

#101.00 APPLICANT: Trustee - David M. Goodrich

Hearing re [25] Applications for chapter 7 fees and administrative expenses

Docket 0

**Tentative Ruling:**

12/15/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Trustee's Fees: \$510.50 [*see* Doc. No. 24]

Total Trustee's Expenses: \$10.50 [*see id.*]

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

The chapter 7 trustee shall submit a conforming order within seven days of the hearing.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Wednesday, December 16, 2020**

**Hearing Room 1568**

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11:00 AM

**CONT... Carmen Hernandez**

**Chapter 7**

**Debtor(s):**

Carmen Hernandez

Represented By  
Cynthia Grande

**Trustee(s):**

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-16883 Michael Anthony McClain and Tanya McClain**

**Chapter 7**

**#1.00** HearingRE: [29] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2010 Mercedes-Benz E Class VIN#WDDHF7CB3AA109691 with proof of service. (Delmotte, Joseph)

Docket 29

**Tentative Ruling:**

12/17/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 21, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Michael Anthony McClain and Tanya McClain Chapter 7**

day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Michael Anthony McClain

Represented By  
Timothy McFarlin

**Joint Debtor(s):**

Tanya McClain

Represented By  
Timothy McFarlin

**Trustee(s):**

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 21, 2020**

**Hearing Room 1568**

10:00 AM

**2:20-18943 Christopher Frank Gonzales and Francine Antionette**

**Chapter 7**

**#2.00** HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Nissan Altima . (Nagel, Austin)

Docket 10

**Tentative Ruling:**

12/17/2020

**Tentative Ruling:**

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, December 21, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**      **Christopher Frank Gonzales and Francine Antionette**      **Chapter 7**  
day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Andrew Lockridge, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

**Party Information**

**Debtor(s):**

Christopher Frank Gonzales

Represented By  
Michael E Clark

**Joint Debtor(s):**

Francine Antionette Gonzales

Represented By  
Michael E Clark

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Monday, December 21, 2020

Hearing Room 1568

10:00 AM

2:20-16475 Neumedicines, Inc.

Chapter 11

#3.00 Continued Hearing

RE: [114] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Debtor's Motion for Order: (1) Approving the Sale of Substantially All Assets Free and Clear of Liens, Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f)(4); (2) Approving the Assumption and Assignment of Certain Executory Contracts; and (3) Entering Findings Related to the Sale; Memorandum of Points and Authorities; Declarations of Daniel J. Weintraub, Timothy K. Gallaher and Raphael Nir in Support Thereof.

fr. 12-10-20; 12-15-20

Docket 114

**Tentative Ruling:**

12/17/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required.

**Party Information**

**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01203 St. Vincent Medical Center v. Harris & Batra Cardiology Medical Group,

**#1.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01203. Complaint by St. Vincent Medical Center against Harris & Batra Cardiology Medical Group, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

FR. 11-3-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Harris & Batra Cardiology Medical

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01209 Verity Health System of California, Inc. v. 360 Management Group, LLC

**#2.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01209. Complaint by Verity Health System of California, Inc. against 360 Management Group, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

FR. 11-3-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

360 Management Group, LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01212 St. Vincent Medical Center v. A B C Agueros Builders Company, Inc.

**#3.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01212. Complaint by St. Vincent Medical Center against A B C Agueros Builders Company, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

FR. 11-3-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

A B C Agueros Builders Company,

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01213 St. Francis Medical Center v. A Team Security, Inc.

**#4.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01213. Complaint by St. Francis Medical Center against A Team Security, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

fr. 11-3-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

A Team Security, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01215 St. Vincent Medical Center v. Advanced Bionics, LLC

**#5.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01215. Complaint by St. Vincent Medical Center against Advanced Bionics, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

FR. 11-3-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Advanced Bionics, LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01218 Verity Medical Foundation v. Ramirez, MD

**#6.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01218. Complaint by Verity Medical Foundation against Alfredo F. Ramirez, MD. (14 (Recovery of money/property - other)) (Moyron, Tania)

FR. 11-2-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Alfredo F. Ramirez, MD

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01245 St. Vincent Medical Center v. Citiguard Inc.

**#8.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01245. Complaint by St. Vincent Medical Center against Citiguard Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

FR. 11-3-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Citiguard Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01400 Verity Health System of California, Inc. v. RLDatix North America Inc.

**#9.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01400. Complaint by Verity Health System of California, Inc. against RLDatix North America Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-8-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

RLDatix North America Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01401 Seton Medical Center v. Robert Half International Inc.

**#10.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01401. Complaint by Seton Medical Center Foundation against Robert Half International Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-27-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

Robert Half International Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By  
Tania M Moyron  
Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01402 St. Vincent Medical Center v. Safe Chain Solutions LLC

**#11.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01402. Complaint by St. Vincent Medical Center against Safe Chain Solutions LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-15-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Safe Chain Solutions LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01403 Seton Medical Center v. San Francisco Surgical Services, LLC

**#12.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01403. Complaint by Seton Medical Center against San Francisco Surgical Services, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-30-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

San Francisco Surgical Services,

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01404 O'Connor Hospital v. San Jose Water Company

**#13.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01404. Complaint by O'Connor Hospital against San Jose Water Company. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-20-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

San Jose Water Company

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01405 Verity Health System of California, Inc. v. Sedgwick Claims Management

**#14.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01405. Complaint by Verity Health System of California, Inc. against Sedgwick Claims Management Services, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Sedgwick Claims Management

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01406 Seton Medical Center v. Shamrock Surgical

**#15.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01406. Complaint by Seton Medical Center against Shamrock Surgical. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Shamrock Surgical

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01407 St. Vincent Medical Center v. ShiftWise, Inc.

**#16.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01407. Complaint by St. Vincent Medical Center against ShiftWise, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-20-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

ShiftWise, Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01408 O'Connor Hospital v. SIPS Consults, Corporation

**#17.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01408. Complaint by O'Connor Hospital against SIPS Consults, Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-8-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

SIPS Consults, Corporation

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01409 Verity Medical Foundation v. Skand Corporation, a California Professional

**#18.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01409. Complaint by Verity Medical Foundation against Skand Corporation, a California Professional Medical Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-27-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Skand Corporation, a California

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01410 St. Francis Medical Center v. Smardan-Hatcher Company

**#19.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01410. Complaint by St. Francis Medical Center against Smardan-Hatcher Company. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 9-24-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Smardan-Hatcher Company

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01411 St. Vincent Medical Center v. Sodexho, Inc.

**#20.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01411. Complaint by St. Vincent Medical Center against Sodexho, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-1-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Sodexho, Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01412 Verity Health System of California, Inc. v. Software Information Systems,

**#21.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01412. Complaint by Verity Health System of California, Inc. against Software Information Systems, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Software Information Systems, LLC

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01413 Verity Medical Foundation et al v. Muhammad J Memon, Professional

**#22.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01413. Complaint by Verity Medical Foundation, St. Francis Medical Center against Muhammad J Memon, Professional Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Muhammad J Memon, Professional

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Tania M Moyron

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 22, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01414 O'Connor Hospital et al v. Abiomed, Inc.

**#23.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01414. Complaint by O'Connor Hospital, St. Vincent Medical Center, Seton Medical Center against Abiomed, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-4-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Abiomed, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Seton Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01415 St. Francis Medical Center et al v. Aesculap Implant Systems, LLC

**#24.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01415. Complaint by St. Francis Medical Center, Seton Medical Center, O'Connor Hospital against Aesculap Implant Systems, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-8-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Aesculap Implant Systems, LLC

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

O'Connor Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01416 Seton Medical Center et al v. Alcon Laboratories, Inc.

**#25.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01416. Complaint by Seton Medical Center, St. Francis Medical Center, O'Connor Hospital against Alcon Laboratories, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Alcon Laboratories, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

O'Connor Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01417 O'Connor Hospital et al v. AtriCure, Inc.

**#26.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01417. Complaint by O'Connor Hospital, St. Vincent Medical Center, Seton Medical Center against AtriCure, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-30-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

AtriCure, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Seton Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01418 Seton Medical Center et al v. Avanos Medical Sales, LLC

**#27.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01418. Complaint by Seton Medical Center, O'Connor Hospital, St. Vincent Medical Center against Avanos Medical Sales, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Avanos Medical Sales, LLC

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

St. Vincent Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01419 St. Francis Medical Center et al v. Bayer Healthcare LLC

**#28.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01419. Complaint by St. Francis Medical Center, O'Connor Hospital, Saint Louise Regional Hospital against Bayer Healthcare LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to 4/6/21 at 10am**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Bayer Healthcare LLC

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Saint Louise Regional Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01420 Seton Medical Center et al v. Carl Zeiss Meditec, Inc.

**#29.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01420. Complaint by Seton Medical Center, St. Vincent Medical Center, Verity Medical Foundation against Carl Zeiss Meditec, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Carl Zeiss Meditec, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Verity Medical Foundation

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01421 St. Vincent Medical Center et al v. Cook Medical LLC

**#30.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01421. Complaint by St. Vincent Medical Center, St. Francis Medical Center, O'Connor Hospital against Cook Medical LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-24-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Cook Medical LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

O'Connor Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01422 Seton Medical Center et al v. Covidien LP

**#31.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01422. Complaint by Seton Medical Center, St. Francis Medical Center, Saint Louise Regional Hospital against Covidien LP. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-8-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Covidien LP

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Saint Louise Regional Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01423 St. Francis Medical Center et al v. FujiFilm Medical Systems U.S.A., Inc.

**#32.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01423. Complaint by St. Francis Medical Center, Seton Medical Center, St. Vincent Medical Center against FujiFilm Medical Systems U.S.A., Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-20-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

FujiFilm Medical Systems U.S.A.,

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Seton Medical Center

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Joseph L Steinfeld Jr  
Tania M Moyron

St. Vincent Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01424 O'Connor Hospital et al v. Getinge Group Logistics Americas, LLC

**#33.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01424. Complaint by O'Connor Hospital, St. Vincent Medical Center, St. Francis Medical Center against Getinge Group Logistics Americas, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 AM.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Getinge Group Logistics Americas,

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Vincent Medical Center

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Joseph L Steinfeld Jr  
Tania M Moyron

St. Francis Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01425 St. Vincent Medical Center et al v. KCI USA, Inc.

**#34.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01425. Complaint by St. Vincent Medical Center, O'Connor Hospital, St. Francis Medical Center against KCI USA, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

KCI USA, Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

St. Francis Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01426 Verity Business Services et al v. Kforce Inc.

**#35.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01426. Complaint by Verity Business Services, St. Vincent Medical Center, St. Francis Medical Center against Kforce Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Kforce Inc.

Pro Se

**Plaintiff(s):**

Verity Business Services

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

St. Francis Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01427 St. Francis Medical Center et al v. Kone Inc.

**#36.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01427. Complaint by St. Francis Medical Center, Verity Holdings, LLC, Seton Medical Center against Kone Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Kone Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Verity Holdings, LLC

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Seton Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 22, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01428 O'Connor Hospital et al v. Medtronic Sofamor Danek USA, Inc.

**#37.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01428. Complaint by O'Connor Hospital, St. Francis Medical Center, St. Vincent Medical Center against Medtronic Sofamor Danek USA, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-4-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Medtronic Sofamor Danek USA,

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

St. Vincent Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01429 O'Connor Hospital et al v. MiMedx Group, Inc.

**#38.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01429. Complaint by O'Connor Hospital, Seton Medical Center, St. Vincent Medical Center against MiMedx Group, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-8-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

MiMedx Group, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

St. Vincent Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01430 O'Connor Hospital et al v. Organogenesis, Inc.

**#39.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01430. Complaint by O'Connor Hospital, Seton Medical Center, Saint Louise Regional Hospital against Organogenesis, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Organogenesis, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Seton Medical Center

Represented By

Joseph L Steinfeld Jr



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Saint Louise Regional Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01431 St. Vincent Medical Center et al v. Penumbra, Inc.

**#40.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01431. Complaint by St. Vincent Medical Center, Seton Medical Center, O'Connor Hospital against Penumbra, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Penumbra, Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

O'Connor Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01432 St. Vincent Medical Center et al v. Prodigy Health Supplier Corporation

**#41.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01432. Complaint by St. Vincent Medical Center, O'Connor Hospital, Saint Louise Regional Hospital against Prodigy Health Supplier Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-7-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Prodigy Health Supplier Corporation

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

O'Connor Hospital

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Joseph L Steinfeld Jr  
Tania M Moyron

Saint Louise Regional Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01433 O'Connor Hospital et al v. SeaSpine Sales LLC

**#42.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01433. Complaint by O'Connor Hospital, Seton Medical Center, St. Vincent Medical Center against SeaSpine Sales LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

SeaSpine Sales LLC

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

St. Vincent Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 22, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01434 St. Vincent Medical Center et al v. Siemens Healthcare Diagnostics Inc.

**#43.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01434. Complaint by St. Vincent Medical Center, O'Connor Hospital, St. Francis Medical Center against Siemens Healthcare Diagnostics Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Siemens Healthcare Diagnostics Inc.

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

O'Connor Hospital

Represented By



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Joseph L Steinfeld Jr  
Tania M Moyron

St. Francis Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01435 O'Connor Hospital et al v. Smiths Medical ASD, Inc.

**#44.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01435. Complaint by O'Connor Hospital, Seton Medical Center, St. Vincent Medical Center against Smiths Medical ASD, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Smiths Medical ASD, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

St. Vincent Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01436 O'Connor Hospital et al v. Steris Corporation

**#45.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01436. Complaint by O'Connor Hospital, Seton Medical Center, St. Francis Medical Center against Steris Corporation. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 12-15-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Steris Corporation

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

St. Francis Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01437 St. Vincent Medical Center et al v. T.R.L. Systems, Incorporated

**#46.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01437. Complaint by St. Vincent Medical Center, St. Francis Medical Center, Verity Holdings, LLC against T.R.L. Systems, Incorporated. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

T.R.L. Systems, Incorporated

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Francis Medical Center

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Joseph L Steinfeld Jr  
Tania M Moyron

Verity Holdings, LLC

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01438 Verity Medical Foundation et al v. TCPrince, LLC

**#47.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01438. Complaint by Verity Medical Foundation, Verity Health System of California, Inc., Saint Louise Regional Hospital against TCPrince, LLC. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-2-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

TCPrince, LLC

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Saint Louise Regional Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 22, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01439 Verity Health System of California, Inc. et al v. TeleTracking Technologies,

**#48.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01439. Complaint by Verity Health System of California, Inc., St. Francis Medical Center, Seton Medical Center against TeleTracking Technologies, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

TeleTracking Technologies, Inc.

Pro Se

**Plaintiff(s):**

Verity Health System of California,

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Francis Medical Center

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Joseph L Steinfeld Jr  
Tania M Moyron

Seton Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01440 St. Francis Medical Center et al v. Tenacore Holdings, Inc.

**#49.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01440. Complaint by St. Francis Medical Center, St. Vincent Medical Center, O'Connor Hospital against Tenacore Holdings, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED 11-17-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Tenacore Holdings, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

O'Connor Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01441 St. Francis Medical Center et al v. TIAA Bank

**#50.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01441. Complaint by St. Francis Medical Center, Saint Louise Regional Hospital, O'Connor Hospital against TIAA Bank. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd to 3/23/2021 at 10am**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

TIAA Bank

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Saint Louise Regional Hospital

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

O'Connor Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01442 Seton Medical Center et al v. US Foods, Inc.

**#51.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01442. Complaint by Seton Medical Center, O'Connor Hospital, Saint Louise Regional Hospital against US Foods, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By  
Samuel R Maizel  
John A Moe II  
Tania M Moyron  
Claude D Montgomery  
Sam J Alberts  
Shirley Cho  
Patrick Maxcy  
Steven J Kahn  
Nicholas A Koffroth  
Kerry L Duffy

**Defendant(s):**

US Foods, Inc.

Pro Se

**Plaintiff(s):**

Seton Medical Center

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

O'Connor Hospital

Represented By  
Joseph L Steinfeld Jr



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

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10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

Saint Louise Regional Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01443 St. Francis Medical Center et al v. VOX Network Solutions, Inc.

**#52.00** Status Hearing  
RE: [1] Adversary case 2:20-ap-01443. Complaint by St. Francis Medical Center, Verity Health System of California, Inc., Verity Medical Foundation against VOX Network Solutions, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

VOX Network Solutions, Inc.

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Verity Health System of California,

Represented By

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Joseph L Steinfeld Jr  
Tania M Moyron

Verity Medical Foundation

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01444 Saint Louise Regional Hospital et al v. W.W. Grainger, Inc.

**#53.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01444. Complaint by Saint Louise Regional Hospital, Seton Medical Center, O'Connor Hospital against W.W. Grainger, Inc.. (14 (Recovery of money/property - other)) (Moyron, Tania)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED 4-6-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

W.W. Grainger, Inc.

Pro Se

**Plaintiff(s):**

Saint Louise Regional Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

Seton Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

Tania M Moyron

O'Connor Hospital

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 22, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01445 St. Vincent Medical Center v. South Fork Healthcare, LLC

**#54.00** Status Hearing  
RE: [2] Amended Complaint by Tania M Moyron on behalf of St. Vincent Medical Center against South Fork Healthcare, LLC. (RE: related document(s)1 Adversary case 2:20-ap-01445. Complaint by St. Vincent Medical Center against South Fork Healthcare, LLC. (14 (Recovery of money/property - other)) filed by Plaintiff St. Vincent Medical Center). (Attachments: # 1 Exhibit A) (Moyron, Tania)

Docket 2

\*\*\* VACATED \*\*\* REASON: CONTINUED 2-16-21 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

South Fork Healthcare, LLC

Pro Se

**Plaintiff(s):**

St. Vincent Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Tania M Moyron

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 22, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01446 St. Francis Medical Center v. Southern California Crossroads

**#55.00** Status Hearing  
RE: [2] Amended Complaint by Tania M Moyron on behalf of St. Francis Medical Center against Southern California Crossroads. (RE: related document(s)1 Adversary case 2:20-ap-01446. Complaint by St. Francis Medical Center against Southern California Crossroads. (14 (Recovery of money/property - other)) filed by Plaintiff St. Francis Medical Center). (Attachments: # 1 Exhibit A) (Moyron, Tania)

Docket 2

\*\*\* VACATED \*\*\* REASON: CONTINUED 2-16-21 AT 10:00 A.M.

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Southern California Crossroads

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Tania M Moyron

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 22, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01447 O'Connor Hospital v. Spinal USA, Inc.

**#56.00** Status Hearing

RE: [2] Amended Complaint by Tania M Moyron on behalf of O'Connor Hospital against Spinal USA, Inc.. (RE: related document(s)1 Adversary case 2:20-ap-01447. Complaint by O'Connor Hospital against Spinal USA, Inc.. (14 (Recovery of money/property - other)) filed by Plaintiff O'Connor Hospital). (Attachments: # 1 Exhibit A) (Moyron, Tania)

Docket 2

**\*\*\* VACATED \*\*\* REASON: CONTINUED 2-16-21 AT 10:00 A.M.**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Spinal USA, Inc.

Pro Se

**Plaintiff(s):**

O'Connor Hospital

Represented By

Joseph L Steinfeld Jr

Tania M Moyron

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 22, 2020

Hearing Room 1568

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01448 Verity Medical Foundation v. SST Investments, LLC

**#57.00** Status Hearing  
RE: [2] Amended Complaint by Tania M Moyron on behalf of Verity Medical Foundation against SST Investments, LLC. (RE: related document(s)1 Adversary case 2:20-ap-01448. Complaint by Verity Medical Foundation against SST Investments, LLC. (14 (Recovery of money/property - other)) filed by Plaintiff Verity Medical Foundation). (Attachments: # 1 Exhibit A) (Moyron, Tania)

Docket 2

\*\*\* VACATED \*\*\* REASON: DISMISSED 11-17-20

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

SST Investments, LLC

Pro Se

**Plaintiff(s):**

Verity Medical Foundation

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Tania M Moyron

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01449 St. Francis Medical Center v. St Francis Radiology Group

**#58.00** Status Hearing  
RE: [2] Amended Complaint by Tania M Moyron on behalf of St. Francis Medical Center against St Francis Radiology Group. (RE: related document(s)1 Adversary case 2:20-ap-01449. Complaint by St. Francis Medical Center against St Francis Radiology Group. (14 (Recovery of money/property - other)) filed by Plaintiff St. Francis Medical Center). (Attachments: # 1 Exhibit A) (Moyron, Tania)

Docket 2

**\*\*\* VACATED \*\*\* REASON: DISMISSED 10-13-20**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

St Francis Radiology Group

Pro Se

**Plaintiff(s):**

St. Francis Medical Center

Represented By

Joseph L Steinfeld Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 1568**

10:00 AM

**CONT...**

**Verity Health System of California, Inc.**

Tania M Moyron

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 22, 2020

Hearing Room 1568

10:00 AM

2:20-16475 Neumedicines, Inc.

Chapter 11

#59.00 Continued Hearing

RE: [114] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Debtor's Motion for Order: (1) Approving the Sale of Substantially All Assets Free and Clear of Liens, Claims, Interests and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f)(4); (2) Approving the Assumption and Assignment of Certain Executory Contracts; and (3) Entering Findings Related to the Sale; Memorandum of Points and Authorities; Declarations of Daniel J. Weintraub, Timothy K. Gallaher and Raphael Nir in Support Thereof.

fr. 12-10-20; 12-15-20

Docket 114

**Tentative Ruling:**

12/21/2020

**Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing. The cost for persons representing themselves has been waived.**

Hearing required.

**Party Information**

**Debtor(s):**

Neumedicines, Inc.

Represented By  
Crystle Jane Lindsey  
Daniel J Weintraub  
James R Selth

**United States Bankruptcy Court  
Central District of California  
Northern Division  
Judge Ernest Robles, Presiding  
Courtroom 201 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 201**

10:00 AM

**2:18-20151 Verity Health System of California, Inc.**

**Chapter 11**

Adv#: 2:20-01233 Verity Health System of California, Inc. v. Gray

**#7.00** Status Hearing

RE: [1] Adversary case 2:20-ap-01233. Complaint by Verity Health System of California, Inc. against Bryan Lee Gray. (14 (Recovery of money/property - other)) (Moyron, Tania)

FR. 11-3-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: DISMISSED11-5-20**

**Tentative Ruling:**

11/2/2020

Order entered. Status Conference **CONTINUED to December 22, 2020 at 10:00 a.m.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

**Defendant(s):**

Bryan Lee Gray

Pro Se



**United States Bankruptcy Court  
Central District of California  
Northern Division  
Judge Ernest Robles, Presiding  
Courtroom 201 Calendar**

**Tuesday, December 22, 2020**

**Hearing Room 201**

---

10:00 AM

**CONT... Verity Health System of California, Inc.**

**Chapter 11**

**Plaintiff(s):**

Verity Health System of California,

Represented By  
Joseph L Steinfeld Jr  
Tania M Moyron